



STATE OF NEW MEXICO
SECOND JUDICIAL DISTRICT

STAN WHITAKER
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July 10, 2020

Chief Justice Judith Nakamura
New Mexico Supreme Court
271 Don Gaspar Ave.
Santa Fe, NM 87501

Justice C. Shannon Bacon
New Mexico Supreme Court
271 Don Gaspar Ave.
Santa Fe, NM 87501

Justice Michael Vigil
New Mexico Supreme Court
271 Don Gaspar Ave.
Santa Fe, NM 87501

Justice David Thomson
New Mexico Supreme Court
271 Don Gaspar Ave.
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Justice Barbara Vigil
New Mexico Supreme Court
271 Don Gaspar Ave.
Santa Fe, NM 87501

Re: Second Judicial District Court Courthouse COVID-19 Final Resumed Operations Plan

Dear Justices:

The Second Judicial District Court (SJDC) continues to be responsive to the unfolding coronavirus (COVID-19) public health emergency by balancing public health and safety with court access and openness in accordance with the New Mexico Supreme Court's orders throughout this emergency. In accordance with the Emergency Response Team's (ERT's) Memorandum of May 8, 2020, the SJDC's response of June 23, 2020, and the ERT's Memorandum of June 29, 2020, the Second Judicial District Court respectfully submits its final Resumed Operations Plan.

The SJDC has prepared its operations plan in light of local circumstances present in Bernalillo County. As of the date of this operations plan, the outbreak of COVID-19 in Bernalillo County has been relatively mild considering the population of the county, however we are closely monitoring the most recent uptick in cases.¹ It is important that SJDC's expansion of operations plan is done

¹ See New Mexico Department of Health COVID-19 cases by county, available at <https://cvprovider.nmhealth.org/public-dashboard.html> (last visited July 9, 2020) (as of July 9, 2020, Bernalillo County has a total of 2,816 cases); see also United States Census Bureau: Population Estimates, July 1, 2019,

in such a way to ensure that we contribute to the relative success this county has had in minimizing the spread of the infection and that our plan be flexible enough to address any resurgence in infection rates. The plan addresses the continuing responsibility of the SJDC to protect public and employee health and safety while addressing the backlog of cases arising from the scaled-back operations caused by COVID-19.

In drafting its plan, the SJDC incorporates guidance from the New Mexico's All Together New Mexico: COVID-19 Safe Practices for Individuals and Employers, best practices from the National Center for State Courts, guidance from the New Mexico Department of Health (NMDOH) and Centers for Disease Control and Prevention (CDC), information from the National Center for State Courts, and reopening and transition plans from states throughout the country that have resumed and are planning to expand and resume court operations in the midst of this national health emergency. The SJDC has revised its plan in response to comments and questions from the ERT about certain safety and operational issues addressed in the original plan.

The SJDC has implemented and is currently operating under its scaled-back operations plan, key components of which include: (1) conducting court hearings telephonically or by video in accordance with New Mexico Supreme Court Order 20-8500-025 Additional Precautionary Measures for Court Operations (March 23, 2020); (2) development of a comprehensive video and audio technology plan to address the technology needs of the Court; and (3) implementation of remote access accounts for a large majority of its workforce. *See* March 11, 2020, Second Judicial District Court Scaled Back Operations Plan.

The SJDC has worked closely with community justice stakeholders in implementing and carrying out the scaled-back policies and procedures in response to the COVID-19 pandemic. As the courts go forward with gradually transitioning to more in-person processes, the SJDC will continue to collaboratively work with the justice stakeholders to ensure the needs of those affected by the transition are appropriately considered.

Each division of the SJDC has developed a plan addressing safety and hygiene, docket management, and scheduling issues specific to each division. Some divisions have plans to resume certain in-person proceedings on a different scale and rate than others based on the unique needs of each division. Some divisions have revised their plans in response to comments from the ERT. For example, the first criminal jury trial is currently scheduled for July 14, 2020. ***See Exhibit A.*** While criminal and juvenile cases will take priority, the Civil Division will resume jury trials earlier than originally planned. ***See Exhibit B.*** The first civil trial was scheduled for July 13, 2020, however that case settled. Another civil jury trial is scheduled for July 21, 2020. A summary of divisional plans will be provided where relevant with citation to the full plan of the division.

Attached you will find the following plans for each SJDC division: Criminal Division (***Exhibit A***), Civil Division (***Exhibit B***), Children's Court Division (***Exhibit C***); and Family Division (***Exhibit D, Exhibit D-1***). Additional operational plans for the Court Clinic (***Exhibit E, Exhibit E-1***) and Self-Help Center (***Exhibit F***) are attached as well. Court Administration department plans and other department plans are discussed below.

available at <https://www.census.gov/quickfacts/bernalillocountynewmexico> (last visited July 8, 2020) (Population estimates of Bernalillo County on July 1, 2019, 679,121).

Safety: Minimizing the Risk of Exposure to the Novel Coronavirus

The Second Judicial District Court is committed to minimizing the risk of exposure to COVID-19 to judges, employees, and the public. SJDC remains committed to managing the number of people permitted in our facilities and will continue remote proceedings in all cases where it is possible and practicable to ensure continued access to the courts to the fullest extent possible. SJDC will also continue to promote teleworking by employees where practicable.

All reports by the Court Visitor Team have been positive and have reflected that SJDC has implemented all safety protocols and policies in accordance with the respective New Mexico Supreme Court orders. We have included photographs with the SJDC operations plan to demonstrate the collective efforts our Court has undertaken to implement COVID-19 safety protocols to protect the public, employees, and jurors.

Managing the number of people permitted in our facilities

In-Person Hearings

Criteria for determining when in-person hearings are necessary will be addressed by each division and in consultation with the Chief Judge as required in Order No. 20-8500-025. All divisions and departments plan on continuing with remote proceedings, gradually transitioning to in-person proceedings as permitted by New Mexico Supreme Court orders. While in-person proceedings will gradually expand, the SJDC will continue remote proceedings in all cases wherever possible and practicable to help minimize virus exposure.

The technology and procedures that have been in use during the scaled-back plan will continue to be utilized and improved in the event of a surge in COVID-19 cases and there becomes a need to resume scaled-back processes. The SJDC Information Technology Department has been working with each division to address their technology needs and will be available to help the divisions continue to incorporate technology as in-person proceedings open up.

While each division has devised its own transition plan, the SJDC recognizes that social distancing requirements have placed certain limits on occupancy capacity within the SJDC facilities. Although the ultimate goal is to safely return to routine operations, the SJDC may be required to prioritize in-person proceedings until occupancy limits can be increased. The SJDC will continue to operate, to some extent, under its March 11, 2020, scaled-back plan to ensure that the Court continues to address all matters. The priority of cases remains the same as set forth in the SJDC Scaled Back Operations Plan with the addition of jury trials.

The Criminal Division plans to continue to conduct all hearings remotely with the exception of jury and bench trials (planned to begin in mid-July) and out-of-custody hearings in special situations where a party is unable to access the technology needed for remote hearings. More extensive in-person hearings for in-custody defendants will resume when conditions permit safe transport of inmates and there is less risk of spreading COVID-19 within the jail and prisons and as permitted by Supreme Court Order. The SJDC conducted a criminal mock trial on July 6, 2020.

SJDC is reviewing the feedback forms from that Mock Trial and will incorporate the suggestions and lessons learned from that experience. **See Exhibit A.**

The Civil Division will continue to hold many hearings remotely with trials also resuming in mid-July. In-person hearings will be held where the nature of the hearing requires in-person attendance or where a party lacks the ability to attend remotely. As is the practice with all divisions, when in-person hearings are held, the courtrooms are cleaned between hearings and social distancing is enforced during the hearings, as described in more detail below. **See Exhibit B.**

As the Civil Division is resuming jury trials earlier than originally planned, the Civil Division has submitted a revised plan to accomplish that goal. **See Exhibit B.** The first civil trial is currently scheduled for July 13, 2020. In cooperation with the Criminal Division and to accommodate the Criminal Division's jury trial plan, the Civil Division has agreed to begin civil jury trial voir dire on Thursdays and Fridays where possible. The Civil and Criminal divisions will work to coordinate their trial start dates to ensure that no more than one trial begins voir dire on any given day to ensure sufficient staff and courthouse space. The Civil Division will continue to explore the possible use of off-site locations for trials and will submit a plan for ERT review prior to utilizing any off-site space.

The Children's Court Division plans to conduct hearings remotely with the exception of jury and bench trials. SJDC will implement additional safety precautions for in-person proceedings and trials. The Children's Court Division will continue to use Videoconferencing and Pod system currently being used for in-custody MDC youth and youth at YSC. The Children's Court Division will continue to hold the majority of its Child Welfare and Delinquency out-of-custody hearings remotely via Google Meet. The Division has developed a rotation plan for judges and hearing officers, along with support staff, through July. **See Exhibit C.**

In response to the ERT's questions and comments, Children's Court has measured and staged the large courtroom (124) for jury trials (12 person) as well as the Chama conference room for voir dire. **See Exhibit C-1.** Most jury trials at Children's Court are 6-person trials but a number of Youthful Offender cases have been filed requiring 12-person juries. The Children's Court will coordinate with the Criminal Division on voir dire at the downtown facility for larger panels. It should be noted that a majority of hearings will continue to utilize remote proceedings. Staff will work on a staggered on-site and teleworking schedule to meet the operational needs of JJC. **See Exhibit C-2.** Staffing will increase for jury trials and screening protocols. Many abuse and neglect trials have been able to continue via video conference but where there is not an agreement for video conference attendance, the Children's Court will only utilize courtroom 124 to allow for sufficient social distancing. For handling in-person confidential communications, the Children's Court will use the same communication devices used by the other divisions for jury trials.

The Family Court Division will continue to review caseloads to determine those matters that can be decided by memorandum order. Matters will otherwise be handled pursuant to the Division's prior pandemic procedures using remote proceedings to the greatest extent possible unless there is a good cause for an in-person appearance. Staff will begin in-court work on a rotation hearing four dockets per day. Any remaining backlog will be dealt with through a "rocket docket" during the

week of July 6-10, 2020. The Division has developed a rotation plan for judges and hearing officers through July. **See Exhibit D.**

In response to ERT's questions and comments, the Family Court has submitted a revised plan for the return of the public to the Division. **See Exhibit D.** The Family Court has been operating successfully using remote technology and has offered its courtrooms and hearing rooms to assist the Criminal Court, Children's Court, and Civil Court with their plans to resume in-court proceedings. Family Court is aware of the potential increase in foot traffic to the courthouse once in-person proceedings commence. For in-person proceedings (where there is good cause), the Family Court Division is prepared to hold such proceedings consistent with Supreme Court Order No. 20-8500-020. The Family Court plan focuses on gradually increasing these proceedings while keeping some proceedings remote to control the number of people coming into the courthouse and the number of staff needed in the courthouse.

For handling confidential communications, the Family Court has been taking a break during the proceedings to allow attorneys to consult with their clients. This method of communication will continue, and the parties will be allowed to go to an area where social distancing can be maintained while allowing for confidential communications.

Court Clinic involves extensive in-person interviewing and observation of adults and children. Limited in-person contact has affected the ability of the Clinic to formulate complete clinical impressions and recommendations. The mission of the Second Judicial District Family Court Clinic is to provide court ordered families access to mediation, evaluations, and other dispute resolution alternatives with the primary goal of empowering parents to resolve conflicts. The Court Clinic developed an extensive plan for resuming in-person interviews: slowly transitioning to in-person interviews beginning with one per week and supplementing these in-person interviews with scheduled on-calls. **See Exhibit E.**

In response to the ERTs comments, the Court Clinic has resubmitted its plan, in ongoing consultation with the Second Judicial District Court Family Bench, with a focus on in-person appointments. **See Exhibit E-1.** The anticipated start date for in-person appointments is August 1, 2020, to allow time for plexiglass installation and sufficient time to give families at least two weeks' notice.

Court Reporters/Court Monitors are in court during remote and in-person proceedings. Court reporters and court monitors are vital and indispensable to ensuring an accurate record of proceedings. In criminal courtrooms where defendants will be transported and in-person proceedings in civil hearing rooms and Family Court hearing rooms, plexiglass installation will be implemented on the reporter/monitoring workstations where a minimum 6 feet cannot be maintained in order to ensure the health and safety of the court reporter or monitor and those around the workstation. Parties will be instructed to email exhibits when possible to reduce hand-to-hand contamination. Cleaning supplies will be available at each workstation with instructions on proper cleaning.

SJDC Self-Help Center plans to continue providing assistance to self-represented litigants remotely via telephonic workshops and public telephones provided at the courthouse. The phones provided at the courthouse are cleaned by court personnel and there are directions posted for the public to wipe down the phones before and after use. The Center plans to slowly resume in-person interviews beginning at the downtown location with one window at first, expanding to three windows over time. *See Exhibit F.*

SJDC Judicial Supervision and Diversion Program (JSDP) is analyzing data to determine whether the procedures implemented by the scaled-back plan have had a negative, positive, or neutral effect on outcomes. If the outcomes are positive or neutral, JSDP plans to continue with the scaled back plan until conditions improve. Drug testing will resume beginning with the highest risk defendants based upon pre-trial monitoring levels (PML). JSDP will begin random testing of PML 4 defendants once per month. Testing of defendants on PML 3, 2, and 1 will remain suspended until further guidance is available regarding the safety of more extensive in-person contact. Drug testing will occur in the SJDC downtown courthouse which has been configured and marked to ensure social distancing and is regularly disinfected. JSDP staff will resume in-office work beginning on a rotation until full staffing is permitted. JSDP officers will continue to appear remotely at hearings until the Criminal Division expands in-person proceedings. Treatment courts will resume virtual hearings, have already commenced drug testing and will expand such testing as needed, and will continue to utilize Google Meet for visits with treatment court participants.

The SJDC Jury Division will work with each division regarding their respective needs when jury trials resume. The jury selection process is described in more detail below. Jurors will be contacted the day before they are scheduled to appear for voir dire and will be asked COVID-19 screening questions to ensure the most up-to-date information is received and those responding in the affirmative to the questions can be asked to stay home. The SJDC Jury Division will work with jurors to let them know that the Court takes their health very seriously and has implemented a variety of safety measures for their well-being, including screening measures, disposable masks for their use, social distancing to include staggered arrival times and expanded seating arrangements, adequate restrooms for hand washing, hand sanitizer, and comprehensive cleanings of the courthouse, jury assembly room, and the courtrooms.

SJDC Administration, Information Technology, Human Resources, and Fiscal Departments will continue to provide support to the Court and will have on-site support every day while continuing to have staff on a rotation schedule until full operations resume.

The Interpreter Division will continue to provide its services for both remote and in-person proceedings. During SJDC scaled-down operations, at least one interpreter has been present on-site every day on a rotational basis. In-court interpreters wear masks, comply with social distancing (as they can stand or sit anywhere in the courtroom), and use wireless interpretation equipment. Any interpretation equipment given to the parties is wiped down before being given to a party and after use by the party. As hearings increase, multiple interpreters may be present in the courthouse.

Video remote interpreting can be used for JJC hearings; however, as it may be difficult to hear via video when some parties appear by telephone, interpreters may be present for those hearings as

well. Telephonic interpretations are available for domestic violence and child support hearings. Civil arbitrations and court-ordered psychological evaluations are covered both in-person and remotely. Telephonic and remote hearings are covered by an interpreter who is teleworking and in-court proceedings are covered by the interpreter in-court that day. The interpreter division has hired freelance interpreters when necessary for both remote and in-person proceedings.

A court interpreter will participate in the SJDC mock trial to determine placement during a jury trial for appropriate social distancing.

Accommodating the Press and the Public

The SJDC recognizes the vital function the press plays in the administration of justice and the frequency of press requests in our district. Given the size of the Court and the nature of the proceedings, the SJDC has frequently been visited by nearly every media outlet in the State. Accommodating and providing access to the press is an important concern to the Court. The SJDC Administration and Public Information Officer often work corroboratively with media outlets to ensure access to court proceedings and especially now amidst the health emergency. During these uncertain times and for safety reasons, it may not always be possible to have representatives from multiple media outlets present in the courtroom. As in-person proceedings increase, including jury trials, the 6-foot social distancing requirements and new occupancy limits may limit the press to one or two total individuals per courtroom and, at times, may not allow for any press to be physically present in the courtroom. As an interim measure, the press will continue to use a pool camera where safely possible and may be required to observe proceedings from a separate location via live video feed.

Current social distancing guidelines may also necessarily limit the ability to accommodate members of the public to watch the proceedings in the courtrooms. A dry run of how to set up a criminal jury trial was recently conducted in a medium-sized courtroom (Room 338). Following social distancing guidelines and accounting for movement and seating of witnesses, up to fifteen jurors, two security personnel, one defendant, the victim, two prosecuting attorneys, one defense counsel, one bailiff, one court monitor, an interpreter, and one judge, there was sufficient room for one media person and one or two audience members. Certain trials will require an “extra room” to be used to allow the public and media to watch proceedings.

The SJDC is considering all available options to accommodate the public and maintain adequate social distancing, including the use of larger rooms for public viewing of trials. Most courtrooms are not large enough to accommodate an audience during trial. Therefore, the SJDC IT department will be setting up a media cart in the trial courtroom and the viewing room. The events from the trial courtroom will be streamed to the media cart in the viewing room and will have audio and visuals of the well of the trial courtroom.

Additionally, given the size of jury rooms and the inability to social distance in those rooms, courtrooms will be assigned for jury deliberation. These areas will be reconfigured with seating

marked off to ensure a minimum 6-foot radius social distancing. Additional security will be required for these areas.

SJDC has partnered with key stakeholders and plans to conduct a mock criminal jury trial in early July, as outlined in the COVID-19 Criminal Division Plan. This mock trial will identify other safety issues that could arise, will ensure any concerns are addressed prior to the resumption of trials, and will ensure appropriate execution and, if necessary, adjustments to the plan.

Filing

SJDC plans to continue allowing self-represented litigants to file pleadings by email or fax and attorneys to file pleadings in case types not currently available by e-filing. The Clerk's Office will continue to use the following email addresses for e-filing and fax filing through the first phase of transitioning:

Juvenile Justice Center (JJC), albd-jq-filings-grp@nmcourts.gov, All Abuse and Neglect (JQ) filings

Juvenile Justice Center (JJC), albd-jjccalendarclerks-grp@nmcourts.gov, Juvenile Delinquency (JR) and Youthful Offender (YR) initial filings

SJDC, Criminal Division, albdcrim-grp@nmcourts.gov, Initial filings

SJDC, Domestic Matters, albdcopydm@nmcourts.gov, Pro-se filings

Children's Court, jjc-MentalHealth-grp@nmcourts.gov, Mental health filings

Children's Court, albd-jq-filings-grp@nmcourts.gov, JQ filings

All downtown divisions, FAX: 505-841-6705, For all fax filings

Parties will be instructed to file sealed cases through the e-filing system versus email as E-File and Serve is viewed as a more secure and clean process for these types of matters.

SJDC encourages expanding e-filing in case types not currently available. This will continue to allow the SJDC to manage the number of people permitted in its facilities. The SJDC has sought to pilot e-filing on abuse and neglect cases. The SJDC has the support of CYFD, as well as parent counsel, and the Guardian ad litem/youth attorneys in the district. E-filing would greatly speed the time an Ex Parte Custody Order directing the pick-up of the children could be available to law enforcement, which in some situations is imperative to ensure the child's safety, and/or the parent/custodian does not flee. The Children's Court Clerk's office is already e-filing the juvenile delinquency pleadings. Moving to e-filing of abuse and neglect would allow uniformity of case processing by the clerks. While Children's Court is accepting all pleadings by email, the process is more cumbersome and less efficient than e-filing. Another case category for possible consideration of expanded e-filing is probate sequestered (PQ) cases. The SJDC Criminal Division is already allowing the filing of criminal informations via email.

Scheduling

Prior to the restrictions put into place in response to the COVID-19 pandemic, the downtown courthouse received approximately 2,300-2,500 visitors per day for an average of 50,000 visitors per month. The Children's Court received approximately 200-250 daily visitors and JSDP received

approximately 2,500 visitors per month. As restrictions ease, the SJDC expects the number of visitors to its facilities to gradually increase and approach pre-COVID-19 levels.

Each division or department plan addresses the backlog and the prioritization of cases and proceedings that have been delayed. The SJDC will continue to facilitate and coordinate scheduling in an effort to control and reduce the number of people entering or congregating in the courthouse at any one period of time. Nearly all divisions have incurred a backlog resulting from the scaling back of proceedings resulting from COVID-19. The SJDC anticipates that criminal and civil jury trials will increase starting in July. It is also anticipated that foreclosures, landlord-tenant, guardianships, and consumer debt cases will increase significantly as moratoriums and stays are lifted. Court Clinic in-person interviews and mediations will also gradually increase, as well as drug testing, and the Self-Help Center anticipates an increase in in-person visits. The SJDC anticipates it will need additional resources to deal with the influx.

Please refer to the attached division and department plans for more specific scheduling information.

Plea Decisions

In accordance with Supreme Court Order No. 20-8500-022, with the exception of the Criminal Division, the SJDC will enforce a strict plea and settlement deadline no later than five business days before the scheduled date for jury selection or commencement of a bench trial. Any requests outside the deadline will be granted only upon a finding of extraordinary circumstances. The Criminal Division will continue to enforce strict compliance with LR2-308 NMRA that pleas be submitted no later than ten days before the trial date.

Jury Trials

In accordance with the New Mexico Supreme Court Order No. 20-8500-020 (May 28, 2020), the Criminal Division, Civil Division, and Children's Court have created plans for resuming jury trials. **See Exhibits A, B, and C.**

The SJDC plans to resume jury trials in mid-July, first through the Civil and Criminal Division. The Criminal Division will start with in-custody defendants. Gradually resuming jury trials will allow the SJDC to carefully monitor the impact on the SJDC and allow us to modify our plans and implement additional protective measures if needed. We have considered the guidance provided by the National Center for State Courts and published guidance from the City of Albuquerque, Bernalillo County, New Mexico Department of Health, Center for Disease Control, as well as the guidance provided by the ERT, and have sought input from community justice stakeholders (DA's Office, LOPD, and the private defense bar).²

The Criminal Division has put together recommendations in its proposed plan to safely hold jury trials. The Division intends to maximize jury selection through the use of special questionnaires

² The SJDC is seeking input from local and state public health or infectious disease specialists to review plans for resuming jury trials.

and deferrals. Jury panels will be limited in size and all people present for a jury trial, including jurors, will be required to wear face masks. The protocol for the safe distribution of juror supplies is described in the Criminal Division's plan. The Criminal Division does not recommend conducting jury trials outside the courthouse given security and transportation issues with criminal defendants. **See Exhibit A.**

The Civil Division plans to resume jury trials in mid-July as set forth in its revised plan. At the ERT's suggestion, the Civil Division will continue to pursue the option of using larger off-site venues, such as the Albuquerque Convention Center, for jury selection. The Division will submit a plan to the ERT for review prior to utilizing any off-site space. The Division intends to maximize the use of courtroom technology to allow for remote appearances for trial. **See Exhibit B.**

The Children's Court plans to add additional trial dockets beginning July 1, 2020. The Court will have a new judge who will be able to assist with any backlog. The Children's Court will utilize a plan similar to the Criminal Division, utilizing separate rooms for jury trials and using rooms at the downtown SJDC courthouse when necessary. **See Exhibit C.**

In light of the public health emergency and its impact on court operations, it may become necessary to create temporary court rules, use administrative orders, or amend current rules or statutes regarding issues such as triggering events for timelines. These issues are addressed in more detail in the individual division plans.

Jury Selection

- a. *Remote excusals and limiting the number of jurors reporting to the facility.* The SJDC intends to limit the number of jurors reporting for voir dire through the use of special questionnaires (addressed below) and deferrals. The SJDC plans on starting no more than one trial per day to limit the number of jurors reporting to the facility. The maximum number of jurors who will be called for voir dire at the downtown courthouse at any one time will be limited to 22 in most cases (a.m. and p.m.). The jury assembly room at the downtown courthouse has been reconfigured and marked to ensure proper social distancing. Under such reconfiguration, the downtown jury assembly room can accommodate 22 jurors. SJDC had also originally planned to consider using remote technology to conduct a hybrid jury selection where additional jurors would be placed in the trial courtroom which, with proper social distancing. The Mock Trial demonstrated that, while this idea has some merit, the technology needs to be improved before being implemented. Until technology work-arounds can be implemented, SJDC plans to split voir dire between a.m. and p.m.

The number of jurors called at any one time at Children's Court will be limited to 17 jurors. If necessary, 32 jurors could possibly be summoned for a trial with an interlink between the conference room and a courtroom if the technology is improved.

- b. *Contacting jurors before reporting.* Jurors selected to take part in a scheduled trial will be contacted by the Jury Division the day before they are scheduled to report. Contact will occur via telephone and email. Jurors will be given instructions about where and when to report, and what to bring and not bring when reporting. Jurors will be reminded to bring and wear a mask at all times; however, masks will be provided by the SJDC for those jurors reporting without a mask. Jurors will be asked COVID-19 specific questions to prevent high-risk individuals from reporting to the facility. The Jury Division will not be providing snacks or coffee for the jurors. Bottled water will be available upon request and jurors reporting for voir dire will be instructed to bring non-perishable snacks.
- c. *Day of voir dire.* Jurors will be assigned numbers based on a random order drawn. Jurors will report directly to the juror assembly room which is also where jury selection will take place. As noted above, jurors will be instructed on where to report via contact from the Jury Division the day before they are scheduled to report. On the day jurors report, there will be signage in the lobby of the courthouse, and Jury Division staff will be available to direct jurors. Jury Division staff in the lobby will be masked at all times and will be instructed not to handle documents. Hand sanitizer dispensers are attached to the wall near the elevator banks on every floor.

Trials will be scheduled so there is only one trial per floor. Only one trial will be scheduled to start each day to limit the number of jurors reporting for voir dire.

- d. *Checking in and waiting.* Jury Division Staff will be available in the jury assembly room to validate parking, and to direct them to assigned seating. Jury Division staff will be instructed to wash or sanitize their hands if handling documents from jurors. However, for validating parking, the juror will place the parking ticket on the desk which will be stamped by the SJDC staff without touching the ticket. The Jury Division staff will be masked at all times and will be separated with plexiglass at the check-in desks. The desks will be cleaned after all jurors have reported. Once jurors have started to assemble, the only persons allowed into the assembly area will be court staff, parties, and attorneys. Members of the public will be directed to the viewing room where seating will be properly marked and sanitized.

The jury assembly room has walkways marked on the carpeting to guide jurors who may need to move about the room or use the restroom. Jurors will be instructed upon reporting that they should only move about the room if urgently needed and instructed to stay on the marked walkway. Those jurors reporting to the trial courtroom will be instructed on movement by the bailiff and available Jury Division staff.

The parties, judge, and court staff assigned to the trial will be present in the jury assembly room.

- e. *Selecting jurors.* Once the questioning of jurors is completed, the parties and court staff will adjourn to the courtroom to discuss the excusal of jurors. Selected jurors will be notified. All other jurors will be dismissed immediately with the Court's thanks and asked to leave the courthouse. Court staff will ensure social distancing.
- f. *Cleaning.* The commonly used areas of the jury assembly room will be cleaned periodically, at least every two hours. Additionally, the jury assembly room will be cleaned after each voir dire (a.m. and p.m.). A cleaning log will be maintained of the cleaning of the jury assembly room and adjoining restrooms.

Special Questionnaires

The Criminal Division has modified the proposed introductory instruction submitted by the New Mexico Trial Lawyers Association (NMTLA) for criminal cases. *See Exhibit G.* The Civil Division has included a proposed jury instruction on COVID-19, which was received from the NMTLA. Some version of the proposed instruction will be considered. *See Exhibit H.* Jurors will be contacted the day before they are scheduled to appear for voir dire and will be asked COVID-19 screening questions to ensure the most up-to-date information is received and those responding in the affirmative to the questions can be asked to stay home.

Jury Boxes and Galleries

The current jury deliberation rooms are inadequately sized to allow for social distancing for an entire jury of 12 people. Alternate arrangements will be made for jurors to ensure 6-foot social distancing can be maintained, including housing jurors in separate courtrooms rather than jury deliberation rooms, or allowing the jury to remain in the trial courtroom while all other people vacate the courtroom.

Photographs of a sample of jury assembly rooms, hearing rooms, courtrooms, and conferences rooms at the downtown courthouse and Children's Court locations have been provided. *See Exhibit I* (downtown courthouse); *Exhibit J* (Children's Court). Courtrooms 338 and 520 have had seating configured and marked off to account for social distancing. *See Exhibit K.*

As a result of social distancing requirements, the jury cannot be contained solely to the jury box. The SJDC will utilize the gallery for jury seating. Such juror seating is anticipated to occupy the majority of the courtroom requiring a separate viewing room for members of the public and media. In some instances, there is also room for one media person to be in the courtroom itself rather than the audience room.

The SJDC has used the Federal Emergency Management Agency (FEMA) occupant load calculation as a baseline to set the maximum occupancy of the rooms in the facilities. However, as noted by the ERT, physical barriers in courtrooms negate simple square footage calculations and thus the SJDC will rely on actual movement within the rooms when allowing for seating and

ingress and egress. Furniture will be placed and marked in order to comply with the 6-foot minimum social distancing requirements.

Juror Supplies

The ERT plans to provide the SJDC with individual Ziploc bags of supplies, which will include hand sanitizer, a pen, notepad, and mask, for distribution to jurors selected to serve. The SJDC thanks the ERT for providing the bags, which bailiffs will place onto the seats assigned to the jurors. At the end of the day, bailiffs will instruct jurors to place their hand sanitizer, pen, and notebook into a clear bag, indicating the number of the juror on the bag. The bailiff will collect and secure the bags at the end of the day and place the bags at each juror's assigned seat at the beginning of the day.

Jury Instructions and Exhibits

The use of trial notebooks containing exhibit packets will be utilized by all the divisions. Parties will be instructed to prepare exhibit packets for each juror, the judge, and the court reporter/monitor. The Electronic Evidence Presenter (ELMO) system will be utilized in those courtrooms where it is available.

When jurors need to communicate with the Court during a trial, they will be instructed to use their provided notebooks to write any questions. The notebook paper will be placed into a Ziploc bag which will be sanitized by the bailiff before being handed to the judge and placed into the record.

Bench Conferences and Confidential Communications

Whether technology is utilized or whether the judge, reporter, and attorneys move into a separate room may depend on the circumstances of the case and the technology available.

- a. *Bench Conferences.* Where bench conferences are frequent and short, technology can be leveraged in trials and hearings. We have successfully tested a Chat application for more basic bench trial communications. In other instances, the judge, court reporter, and one attorney for each side may adjourn to the attached jury deliberation room in order to conduct the bench conference. Such an option may be used when the bench conference is anticipated to be longer and the jury would normally be moved into the jury deliberation room. Rather than moving the entire jury, the judge, court reporter, and attorney for each side will remove themselves to the adjoining room. We are purchasing hand-held digital recording devices to limit the need for equipment movement in some cases; these digital devices store the recorded information until a break in the trial at which point the information will be uploaded into the For the Record (FTR) or Odyssey record. In other cases, the court reporter can simply move their equipment into the jury room. We are also experimenting with using walkie-talkies channel to be used for bench conferences.

- b. *Confidential Attorney/Client Communications.* Headsets, allowing for multi-way communication, will be utilized for confidential discussions between attorneys and clients. Headsets will be cleaned between uses. In addition, attorneys will have the ability to use a Chat application at their counsel table. Hand sanitizer will be available at counsel table, as will disinfectant.

We have purchased (or are purchasing) micro-computers for counsel tables. When combined with headsets and monitors these micro-computers allow for both text chat from counsel table (with the bench and court monitor) and also allow for verbal communication between individuals at the same counsel table through the micro-computer. Attorneys will also be allowed the use of their cellphones or tablets for texting.

Keeping the public, employees, and judges safe

Protecting judges and court staff from exposure to the degree possible

Each division and department will have staff continue to work remotely as much as feasible as the SJDC gradually expands in-court operations. Most divisions of the SJDC intend to keep employees teleworking on a rotation basis to limit exposure and allow operations to continue. However, as jury trials increase, there is an increased need for more litigation support staff in the facility. As employees return to work, and while risk of COVID-19 infection remains, returning employees will not include those who are in the vulnerable or high-risk categories or others who require reasonable accommodations because of COVID-19.³ These employees should continue to work remotely. The divisions and departments will work with supervisors to identify employees who, due to vulnerability or other need for reasonable accommodation, need to continue to work remotely.⁴

Employees working in the courthouse will also be instructed to limit movement within the building as much as possible. The SJDC will remain at least partially on its scaled back plan and is prepared to modify and adjust processes as conditions require.

All areas and facilities will be reconfigured to ensure minimum social distancing of at least 6 feet including points of ingress and egress and accounting for movement of individuals. Frequently used areas are disinfected with cleaning supplies provided by SJDC. Where necessary, tape on the floor and stanchions with rope will be used to control traffic patterns within the courthouse.

The SJDC will work to ensure all workstations are spaced at least 6 feet apart. Employees are provided cleaning supplies and are instructed on cleaning frequently used surfaces.

³ See <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html> (defining people at higher risk for severe illness).

⁴ The SJDC may address reasonable accommodations for issues specific to COVID-19 such as use of public transportation or other situations that may increase the risk of contracting or spreading COVID-19.

Meetings and gatherings will be limited and to the fullest extent possible will be conducted remotely. Where in-person gatherings occur, safety is paramount and larger rooms will be utilized to ensure 6-foot distancing can be observed.

The SJDC will continue to follow the New Mexico Supreme Court guidance regarding travel and isolation following travel.

Signage regarding COVID-19 symptoms, hygiene, and social distancing measures are posted in English and Spanish at entry points and throughout courthouses.

A video, briefly explaining safety, hygiene, and social distancing guidelines will be posted on the SJDC website and will play in the entrance lobby of the courthouse to remind visitors of the protocols in place at the courthouse.

Screening

Members of the public, judges, attorneys, and court staff are required to be screened daily prior to entering court buildings. In accordance with Supreme Court Order No. 20-8500-025, the SJDC has posted the revised screening questions in the Order at the entrance of its facilities. Screening will occur at the front entrances of both courthouses. *See Exhibit L.* Those answering yes to any screening questions will be directed along an exit path away from the entrance of the facility. Having screening occur prior to entry into the courthouse will prevent exposure to those who are in the courthouse and will allow the individual to exit the area without needing to handle doors or objects in the courthouse.

Temperature screening will occur via infrared thermometers and screening questions will be asked by SJDC staff on a rotation basis for June/July 2020; staff will be masked and gloved and follow manufacturer instructions for taking temperatures. SJDC will have temperature-checking kiosks at each facility scheduled for late July 2020.

There will be a self-screening station for judges at the entrance into the Bernalillo County Courthouse from the judge's garage and at the back entrance to Children's Court. Any judge answering yes to the screening questions or recording a temperature of 100.4 or higher will return to their vehicle and leave the premises.

No one who has a temperature equal to or greater than 100.4 degrees Fahrenheit, or who answers yes to any of the screening questions should be permitted entrance into the building. In addition, employees will be instructed to contact a supervisor and not report to work if experiencing any COVID-19 symptoms or exhibiting a temperature of 100.4 or greater.

Media Plan and Communication

SJDC is developing a media plan specific to the Albuquerque metro area. Upon approval of its resumed operations plan, SJDC is ready to implement the media plan. Components of the SJDC

media plan include news releases, updates to the court website, frequently asked questions, and a juror/public video.

The SJDC media plan will strive to assure the public about safety protocols the Court has undertaken and what is expected of those visiting our facilities. SJDC will develop a video for the public and prospective jurors with information of all steps the Court has taken to minimize exposure to the virus. The video will be played for jurors, played in the courthouse lobbies, and available on the SJDC's YouTube channel.

Additionally, SJDC will develop fact sheets with bullet points outlining safety measures and requirements placed in strategic locations throughout SJDC facilities. SJDC will further educate, inform, and instruct the public of the efforts taken by the SJDC and the safety protocols in place via continued media press releases, the SJDC website, and the SJDC's Twitter page.⁵ To further communicate screening and other COVID-19 information specifically to employees, the SJDC will continue to utilize the court's 2nd Look intranet and Nixle. Information on how to sign up for Nixle will be provided to employees.

Contact Tracing

In compliance with Supreme Court Order No. 20-8500-023, the SJDC has created contact-tracing logs that will be maintained by each division to gather the name, telephone number, address or email, date of entry, and time for staff and visitors entering a courtroom. **See Exhibit M.** The SJDC has also created contract tracing logs for staff and visitors to the Self-Help Center and Court Clinic who frequently have prolonged contact with members of the public.

Signs will be placed instructing visitors to provide contact information with instructions to inform the Court if COVID-19 symptoms develop. Information will be kept by the Court for four weeks.

Court employees will be instructed to limit movement within the courthouse and to the fullest extent possible to limit movement outside their division. Litigants, attorneys, and other visitors to the courthouse will be instructed to limit their movement within the courthouse as much as possible and to contact court administration if any COVID-19 symptoms arise after their visit.

As in-person hearings and trials gradually resume, each division will obtain the contact information for visitors, parties, witnesses, and attorneys and will be able to contact those individuals in the event of an exposure. Such information will be kept for a period of four weeks in line with the recommendation in the COVID Safe Practices publication. If the need for contact tracing arises, such efforts will allow the court to more easily isolate and inform employees and members of the public who may have been exposed to COVID-19.

⁵ Press releases will include established SJDC COVID safety measures, including: (1) SJDC facilities being thoroughly cleaned on a regular basis; (2) hand-sanitizing stations being placed throughout SJDC facilities; (3) everyone entering SJDC facilities are required to wear a face mask in addition to being screened for symptoms of, or exposure, to COVID-19; (4) individuals who do not pass the screening are denied entry to SJDC facilities; and (5) SJDC policy for maintaining social distancing at a minimum of 6 feet in every direction during jury selection as well as once a trial begins.

Vulnerable Populations

The SJDC has given serious and thoughtful consideration as to how to best accommodate the needs of vulnerable individuals, including alternatives to in-person court appearances and the need to travel to the courthouse for such vulnerable individuals, and those who may live with or provide custodial or residential care for them. The SJDC may take the following steps regarding those in vulnerable populations:

- Continuing to allow vulnerable litigants, witnesses, victims, attorneys, and other individuals involved in court proceedings to participate in the proceedings remotely or postpone their required presence at the courthouse;
- Including information on orders setting hearings, docket notices, and in other communications notifying individuals who are in vulnerable populations of the ability to contact the court to identify themselves as a vulnerable individual and receive accommodations;
- Communicating full and adequate notice of alternative methods of participating in judicial proceedings. Such notice will include clear instructions on options for the use of remote technology as a reasonable accommodation, *see Exhibit N*;
- Ensuring that remote proceedings continue to provide participants the same opportunity to present evidence and cross examine witnesses as they would have in an in-person proceeding;
- Allow proceedings to be delayed if the party gives notice to the opposing party and the court that they are in a high-risk population;
- Liberally grant continuances to people in high-risk populations;
- Provide notice on SJDC's website and the Self-Help page of the SJDC website, and additionally on the SJDC Twitter account, to vulnerable individuals and those who live with or are caregivers for vulnerable individuals regarding accommodations to reduce the appearance of those individuals at the courthouse. The notice will be translated into Spanish.

The SJDC appreciates the information forthcoming from ERT that will address excusals of high-risk individuals to be included with the summons.

Social Distancing

The SJDC has focused on the number of individuals who can consistently maintain a minimum 6-foot distance, in all directions, in a particular space. We have ensured that a 6-foot distance is maintained between every person in the courtroom and the number that we can have in a courtroom while maintaining the 6-foot minimum is the new occupancy limit and will be posted in every courtroom.

Courtrooms, hearing rooms, jury deliberation rooms, the jury assembly room, clerk's offices, and common public areas will be marked, configured, and, if necessary, furniture removed to ensure a minimum of 6-foot social distancing between individuals.

Plexiglass will be installed throughout SJDC facilities as soon as it is delivered in late July. It will be installed in places where a 6-foot minimum distance cannot be maintained as an additional barrier or where there is a question whether the 6-foot distance can be satisfied or consistently maintained. All individuals will still be required to wear masks. The following are examples of where plexiglass may be installed:

- In the courtrooms, around the jury box, around the judge's bench, at the court reporter/monitor workstation, at the court clerk desk, and around the witness stand;
- Between service windows;
- At interview tables in the Court Clinic areas;
- Other areas where 6-foot distancing cannot be observed. For example, a portable plexiglass sheet may be stationed in front of the judge's bench to provide a barrier during bench conferences when the parties cannot observe the 6-foot distance.

The SJDC will be installed to ensure that plexiglass barriers are of sufficient width and height to achieve their intended purpose of providing protection. **See Exhibit O.** Photographs of the installations will be provided. Until plexiglass can be installed, the SJDC may be instituting temporary measures where social distancing cannot be otherwise maintained. For example, witness stands may be moved farther away from the judge's bench until plexiglass can be installed and members of the public may be asked to stand back from help desks and windows where there is no plexiglass.

Stanchions and rope may be used to facilitate orderly movement and spacing throughout the courthouse. Markings have already been placed at the entrance of the courthouse to ensure 6 feet between individuals as they wait to go through security. Additional markings and signage will be placed throughout the courthouse to direct movement and remind people of social distancing. The SJDC will ensure all public common areas and outside areas are clearly marked to ensure social distancing. Floor markings have been placed instructing people where to stand and additional markings will be placed in certain areas to direct foot traffic at the Bernalillo County Courthouse and the Juvenile Justice Center.

Elevator capacity will be limited. Smaller elevators will be limited to one person per car and the freight elevators will be limited to two people. Signage on each floor of the courthouse and in the elevators will remind visitors and staff about new elevator capacities and the freight elevators will be marked to ensure the 6-foot social distancing. The SJDC has asked Bernalillo County to post or have Thyssenkrupp elevator company post new occupancy limits in the elevators. Additionally, the SJDC will ensure signage regarding new occupancy limits and social distancing will be placed throughout the facilities. Children's Court elevators will be limited to one person.

During periods of expected peak traffic (i.e. when jurors are reporting), SJDC staff will be posted in the lobby to provide additional direction and guidance regarding social distancing and elevator capacities. It is also anticipated that having a staff member conducting foot traffic will avoid any bottlenecks in the lobby. Court calendars will continue to be posted online and on the television monitors in the lobby. Staff will post schedules outside the courthouse when multiple trials and in-person hearings resume.

Cleaning and Hygiene

SJDC is complying with CDC recommendations and the NMDOH guidelines regarding cleaning and disinfecting.⁶ The SJDC thanks the ERT for providing necessary supplies and guidance regarding cleaning facilities. The SJDC staff has been provided with masks, gloves, and cleaning supplies and instructed on proper cleaning protocol. *See* CDC: Cleaning and Disinfecting Your Facility, available at <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html> (last visited June 17, 2020); CDC: Reopening Guidance for Cleaning and Disinfecting Public Spaces, Workplaces, Businesses, Schools, and Homes, available at <https://www.cdc.gov/coronavirus/2019-ncov/community/reopen-guidance.html> (last visited June 17, 2020). SJDC staff and Bernalillo County personnel clean all work areas daily, “high-touch” items are cleaned at least every two hours, and courtrooms and hearing rooms are cleaned after each proceeding and prior to allowing parties into the room for the next hearing. *See* DOH Cleaning and Disinfection of Public Facilities in Response to Novel Coronavirus (COVID-19, dated March 22, 2020). SJDC staff are also instructed to frequently wash their hands in accordance with CDC and DOH guidelines.

Commonly used areas are frequently disinfected and will be done so at a greater frequency as traffic within the courthouse increases. Court employees have been provided with disinfectant and cleaning supplies and instructed to sanitize commonly used areas. County workers also sanitize and disinfect commonly used areas of the courthouse including the front lobby and the elevators. When an individual has reported an area in need of enhanced cleaning, the County has performed enhanced deep cleanings in accordance with their protocols. The Court and County have worked closely to perform enhanced and thorough cleanings throughout the downtown courthouse and the Juvenile Justice Center.

As of May 21, 2020, the Purchasing Department of SJDC acquired a package of alcohol wipes and a bottle of hand sanitizer for every employee physically present at all Court locations.

Hand washing stations have been set up outside the entry point of each SJDC facility. Hand sanitizer dispensers have been distributed throughout our courthouses to ensure that all individuals have access to high levels of hygiene; additional dispensers are located by elevators and employee areas. Each hand sanitizer dispenser is monitored to ensure enough hand sanitizer is placed in each dispenser.

Waste bins are located throughout all three SJDC facilities. Additional waste bins are being placed in all public areas of all three SJDC facilities.

Sanitizing Protocols

- a. *Hearings.* Bailiffs have been provided gloves and cleaning supplies and instructed on cleaning protocols for courtrooms and hearing rooms between hearings. Hearings will be

⁶ *See* CDC Guidance for Cleaning and Disinfecting: Public Spaces, Workplaces, Businesses, Schools, and Homes, available at https://www.cdc.gov/coronavirus/2019-ncov/community/pdf/Reopening_America_Guidance.pdf (last visited May 28, 2020).

scheduled to ensure the courtroom or hearing room can be properly cleaned between proceedings.

- b. *High-touch areas and equipment.* Hand sanitizer dispensers, mounted on the walls, are readily available throughout the SJDC facilities in public areas. SJDC has an inventory of hand sanitizer dispensers throughout the courthouses and requested several dozen additional hand sanitizer dispensers to be installed throughout the courthouse public areas and in the courtrooms. Frequently touched areas such as door handles, handrails, public countertops and desks, elevators, and public telephones are cleaned at least every two hours by Bernalillo County personnel and SJDC staff.
- c. *General cleaning.* Bernalillo County has cleaning protocols in place for when there is a suspected or confirmed case of COVID-19 in a Bernalillo County facility, including the SJDC facilities. Bernalillo County has been cleaning high-touch areas in accordance with the County COVID-19 cleaning protocols.
- d. *Public Restrooms.* Restrooms will be cleaned on a daily basis. More frequent cleaning and disinfection will be required based on level of use with resumed operations. A log has been created to track cleaning and we are looking at how to assign staff in assisting with cleaning of high touch areas every two hours to supplement our normal janitorial services through Bernalillo County. Signs and floor markings have been created for each of the public restrooms and jury bathrooms with instructions on social distancing.
- e. *Jury Restrooms.* Prior to the completion of voir dire, jurors located in the jury room will use the restroom in the attached jury room. These restrooms can only be used by one juror at a time and are not available to the public. After voir dire, when a jury has been assigned a “jury deliberation” courtroom, jurors will use the bathroom in the jury room attached to that courtroom. The jury room will be closed from the attached “jury deliberation courtroom” every two hours for cleaning. Where a juror may be required to use a publicly accessible bathroom (such as those who may be deliberating in a conference room or other large room or during voir dire when a juror is located in a courtroom rather than the main jury room), the bailiff will ensure the bathroom is empty of any members of the public and allow only one jury member into the restroom at a time. These bathrooms will be cleaned on the above schedule.
- f. *Food and beverage service for jurors.* The Jury Division is discontinuing coffee and tea service for jurors. Sanitized water bottles will be provided to jurors upon request. Jurors reporting for voir dire will be instructed to bring non-perishable snack food items for the day. If selected to serve on a trial, jurors will have access to two refrigerators in the jury room for storage of any perishable meals. These meals will be placed in transparent “freezer” bags with the juror’s name. The refrigerators will be sanitized at the end of each day and used only for the selected jurors.

For jurors who are deliberating through lunch, SJDC has normally provided the jury with a lunch meal, most often pizza, or individually boxed sandwiches. Delivery meal service for deliberating jurors will likely continue from restaurants that comply with COVID-19 safe practices for restaurants.

Face Coverings

By order of the New Mexico Supreme Court No. 20-8500-025, as of July 6, 2020, 2020, all court employees, judicial officers, and members of the public are required to wear a mask or face covering at all times while on-site in any state courthouse, including during jury selection and trials. The only time court employees and judicial officers need not wear a mask is when that person is working alone in a separate individual office. The only individuals who are not required to wear a mask or facial covering are the following: young children who are not able to remove the face covering without assistance; any person who provides written proof that the person has been advised by a health care provider not to wear a face covering; anyone who has trouble breathing; or anyone who is unconscious, incapacitated, or otherwise unable to remove a face covering without assistance. Limited exceptions to wearing a face mask during judicial proceedings are addressed in the Emergency Court Protocol, No. 2, Subsections (A)(3) and (A)(4) of the New Mexico Supreme Court No. 20-8500-025. SJDC has worked closely with the Administrative Office of the Courts (AOC) and Bernalillo County to secure a reusable protective face mask for every judicial employee. Furthermore, disposable masks are available and will be provided to individuals (jurors, witnesses, attorneys and the general public) without face coverings at our three facilities.⁷

SJDC Administration will address any requests for reasonable accommodations regarding face masks. The Americans with Disabilities does not have any rules that address the required use of face masks. If a person with a disability is not able to wear a face mask, the SJDC will consider reasonable modifications so that the person with a disability can participate in, or benefit from, its services, programs or activities.⁸ Because COVID-19 has been deemed a direct threat, the protective face covering prerequisite is a legitimate safety requirement necessary for safe operation of the SJDC.⁹ No person shall be admitted entry to the courthouse without an acceptable protective face covering.

⁷ In order to meet the critical needs of SJDC, AOC has worked with federal agencies to obtain a large quantity of disposable face masks given the significant volume of visitors to SJDC facilities.

⁸ See Americans with Disabilities Act, Title II regulations: nondiscrimination on the basis of disability in state and local government services available at https://www.ada.gov/regs2010/titleII_2020/titleII_2010_regulations.htm (last visited July 7, 2020).

⁹ See EEOC Pandemic Preparedness in the Workplace and the Americans with Disabilities Act, available at <https://www.eeoc.gov/laws/guidance/pandemic-preparedness-workplace-and-americans-disabilities-act> (last visited July 7, 2020); see also EEOC What you should know about COVID-19 and the ADA, the Rehabilitation Act, and other EEO laws, available at <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-adarehabilitation-act-and-other-eeo-laws> (last visited July 7, 2020).

Resources

As in-person proceedings increase, the SJDC expects the need for resources in terms of space and staffing to increase. An increase in filings and proceedings as restrictions are lifted may require the use of *pro tempore* judges.

SJDC will require additional security personnel as it begins to open up in-person events. The Court will continue to work closely with Bernalillo County and BCSO to ensure safe and sound court security under these plans.

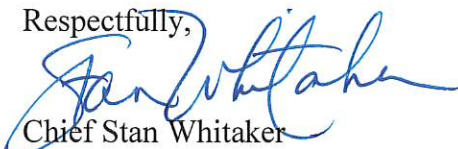
The SJDC anticipates it will have the resources it needs to implement its proposed plan. The SJDC has been resourceful in getting the needs of the Court met.¹⁰ The Court is thankful to Danny Smith, SJDC Support Services Division Director, and Cynthia Pacheco at the Administrative Office of the Courts for their resourcefulness in getting local suppliers of plexiglass, masks, gloves, thermometers, or other resources to meet the vital safety needs of our Court.

III. CONCLUSION

The SJDC recognizes that the ability of the Court to fulfill its mission and perform its functions is based on the public's trust and confidence in the system. At this time, that trust and confidence extend beyond the performance of traditional judicial functions. Our court continues to monitor the coronavirus (COVID-19) pandemic closely and takes the health and safety of its employees and the public seriously. The SJDC remains committed to adopting policies and procedures and following guidance aimed at keeping its employees, judges, and the public safe and communicating these efforts to its employees, justice partners, and the public at large.

The SJDC will continue to provide safe access to the courts while moving toward returning to routine operations; will maintain procedural fairness to all parties, including those who may be restricted from returning to in-person proceedings while the public health emergency exists; and will keep employees and the public informed and connected during the health emergency.

Any questions regarding the Second Judicial District Court's gradual reopening plan may be directed to the Court General Counsel, Elizabeth Garcia.

Respectfully,

Chief Stan Whitaker

Cc: Second Judicial District Court Judges
Emergency Response Team
Artie Pepin, Director, Administrative Office of the Courts
Deborah Dungan, Attorney Admin. Asst. to Chief Justice
Elizabeth Garcia, General Counsel, Second Judicial District Court

¹⁰ As of July 6, 2020, the SJDC has expended \$239,506.31 in General Fund expenditures for COVID-19.

SECOND JUDICIAL DISTRICT COURT CRIMINAL DIVISION **EXPANDED SERVICES PLAN**

This is the plan of the Criminal Division of the Second Judicial District Court (“SJDC” or “Criminal Division”) to expand and resume in-person proceedings where such can be safely accomplished. The following assumptions are made:

- Social distancing of a minimum of six feet per person remains in effect;
- No limits will remain regarding the number of people who may gather in one room of any building; rather, the focus will be on limiting the number of individuals in any one area to the six-feet social distancing requirement;
- The use of face masks remains a requirement while in public;
- Some type of out-of-state travel and quarantine provisions will continue to apply;
- Plexiglass will be available and installed at the end of July 2020.

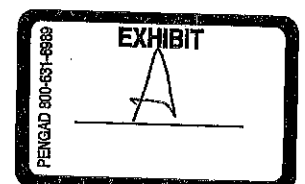
Managing the number and protection of people in the courthouse

The Criminal Division is currently conducting all types of hearings with the exception of trials. All of the following types of hearings continue to go forward, conducted using a variety of technological means: scheduling conferences, conditions of release, pleas, sentencings, competency, pretrial conferences, preliminary hearings, substantive motions, and detention hearings. We do not intend to substantially modify court processes with regard to hearings; a “re-opening” or expansion in terms of hearings is not required because we have continued to conduct all of the necessary hearings. We do intend to implement additional safety precautions for out-of-custody hearings and to resume jury trials.¹

In-custody hearings

The Criminal Division will continue to use the Pod system currently being used for in-custody defendants. This system involves the use of the five Pods available at the Metropolitan Detention Center (“MDC”). Inmates at MDC are placed into one of the five Pods and movement between Pods is limited or non-existent during the COVID-19 crisis. One judge is assigned to a Pod for an entire week for non-probation violation hearings; there is also one additional judge assigned to hear probation violation hearings on most mornings. There are, therefore, a total of five or six judges holding hearings in the Criminal Division in court during the week. The Chief Judge serves as the “conflict” judge, entering the Pod electronically to hold hearings where the Pod judge has been previously excused in a case. All parties and witnesses generally appear remotely via the PolyCom video application. No inmates are transported to SJDC. The remaining Criminal Judges—those not in a Pod week—are currently teleworking on their non-Pod weeks.

¹ This memorandum/plan generally follows the Supreme Court’s requested format for answering the specific questions raised.



For these in-custody Pod hearings, the only individuals in the courtroom are the judge, a court monitor, usually a calendaring clerk, and a bailiff. There may periodically be media and public with prior permission, but people physically in the courtroom are kept to a minimum. Documents and exhibits are exchanged via email to further limit contact between people. Witnesses appear either via PolyCom or telephonic conferencing bridge; family members and the media may listen via phone or may come into the courtroom where media carts display the proceedings to the audience. Social distancing is in effect in the courtroom.

This system has been working well, though there have, of course, been some technological issues. Generally, the judges and parties have been able to work around any issues as they arise. We note the Polycom system has generally been working well for these hearings,

SJDC has been in contact with its justice partners (MDC, the Law Offices of the Public Defender (“LOPD”), the private defense bar, and the District Attorney’s Office (“DA”)) and there is general agreement that remote proceedings for in-custody individuals should continue for the foreseeable future, except as outlined for jury trials, as discussed below.² We believe MDC’s success in generally keeping COVID-19 out of the jail (with very few positive tests) is in large part due to limiting transport for inmates, which significantly reduces exposure.³

Out-of-custody hearings

The Criminal Division will continue to hold the majority of out-of-custody hearings remotely via GoogleMeets or teleconference. Only if a party does not have access to the equipment to appear remotely or other compelling circumstances exist will they appear in-person after consultation and approval of the Chief Judge. To the extent possible, the physical appearance of defendants is excused; the parties all participate through remote hearings. Witnesses are allowed to appear remotely. The default for these hearings is GoogleMeets; parties must contact the judge’s office prior to the hearing if any party wants to make a request to appear in-person or requests to appear remotely through alternative means.

If appearing in person, parties are screened before entering the building. Parties and the public entering the courthouse are asked a number of screening questions regarding health and travel, their temperature is taken, and they are instructed not to enter if they answer any of the screening questions in the affirmative. Hand-wash stations are available at the entrance of the courthouse and hand sanitizer is available in several areas throughout the courthouse. Court staff have been provided cleaning supplies and have been instructed to sanitize public and commonly used areas. Court staff and members of the public will be required to wear face masks and observe

² The only anticipated transport from MDC will be for jury trials and for hearings where compelling need exists and in which the Chief Judge has approved transport.

³ While LOPD eventually wants to return to transporting inmates for in-person hearings, they are in agreement with limiting contact with inmates at this time and support the proposal to maintain the Pod system until such time as it is safe to transport inmates. They also understand the difficulties of maintaining social distancing while transporting inmates.

social distancing while in the courthouse. The Court is anticipating installing plexiglass protection in various areas of the courtroom, including the monitor's station, the judge's bench, the witness stand, and potentially counsel tables. Contact tracing logs are in effect in all courtrooms.

As the Criminal Division will be continuing primarily with remote hearings, the number of people in the courtroom/courthouse should be kept to a minimum. The Criminal Division has conferred with its justice partners (LOPD, private defense bar, and DA's office) and those stakeholders generally agree with the outlined process for out-of-custody hearings.

Accommodation, especially where in-person appearances are necessary

Continuances will be granted without penalty when any party is unable to appear because of illness or when caring for someone ill or when other COVID-19 related complications prevent appearance such as issues with childcare or when one of the parties appearing in person has been instructed not to enter the courthouse after self-screening at the entrance.

Courtrooms will be structured to ensure social distancing. The SJDC Purchasing Division, Administration, and Criminal Division staff are working through various courtroom layouts to determine the optimal configuration to comply with the recommended social distancing between jurors, court staff, parties, and attorneys while ensuring all involved are fully engaged in the hearing process. We intend to initially configure several courtrooms in this manner and limit in-person appearances (hearings or trials) to those courtrooms that have been reconfigured to ensure the social distancing requirements.

Rather than focusing on the number of people allowed in a single courtroom, the focus will be on the ability to social distance and maintain six feet between individuals in all directions, utilizing plexiglass in those instances where social distancing is impossible. The proceedings will be able to be viewed by the public and media via video feed from a separate room where social distancing will be observed. Seating will be marked off to ensure six feet of distance per person.

In order to limit the number of people in a courtroom, the media may also be asked to view the proceedings from a separate room or share feeds so only one camera/media person is present in the courtroom.

The Criminal Division will continue to allow self-represented litigants and parties to file by email and fax.

Scheduling and Addressing Jury Trial Backlog

Non-jury trials

As noted above, the Criminal Division will continue to maximize the use of remote hearings for in-custody and out-of-custody defendants to the fullest extent possible.

In-person hearings will continue to be staggered and the courtroom cleared and common areas sanitized between hearings where possible. Defendants' appearance will be waived where practical, and witnesses will appear remotely where possible.

Backlog trials

Trials continued as a result of COVID-19 through May 2020 total 64 cases where the defendant is in-custody and 116 cases where the defendant is out-of-custody. Of these in-custody cases, approximately 45 remain pending as of July 9, 2020.

We plan to first focus our efforts on providing trial time for in-custody defendants. Excluding out-of-custody cases, cases resolved through settlement conferences, and bench trials (see below), it is expected that the trial backlog caused by COVID-19 will require approximately 20 to 30 remaining in-custody backlogged cases needing to be tried. Cases for trial will be prioritized based upon custody status, length of the term of custody, length of trial, and age of the case.

Going forward, the total number of all cases set between June and December 2020 is approximately 955 cases. Previous experience suggests that approximately 85-90% of these cases will be settled through plea agreements.

Trials expected to last longer than 4-5 days (except in special circumstances), trials with out-of-custody defendants, and newer cases will be continued while the Criminal Division works through the backlog of older cases with in-custody defendants.

The Criminal Division has significant experience in disposing of backlogged cases and intends to utilize many of the measures that helped result in a successful implementation of the Case Management Order ("CMO") in 2014-2016.

While the Court has been continuing to hold hearings, we note that there are a significant number of cases where the parties have been unable to conduct all of their pretrial interviews, experts have been unavailable to consult, and other factors beyond the control of the parties have delayed progress in the case.

We intend to have a five-tiered approach to scheduling jury trials which is discussed more fully below. First, identify those cases with in-custody defendants and sort those cases into groups based on the number of days needed for trial. Second, consult with the parties to determine what outstanding issues must be resolved to set a new trial date, allowing us to help prioritize trials in each group. We have created a form for this purpose and it is already in use. Third, offer the option of a bench trial. Fourth, refer some matters to a settlement conference four weeks prior to the tentative trial date. Fifth, schedule cases for trial with a new and definite plea deadline 10 or 15 days prior to definite trial date. Once we have addressed the in-custody backlog, a similar approach will be taken for out-of-custody cases.

Bench trials

Bench trials will be utilized where parties waive a jury trial. We intend to offer the parties the opportunity for bench trials as part of clearing the existing backlog. It is our understanding that there is some enthusiasm from both defense and the state for this option as a mechanism to have cases decided expeditiously and efficiently. We would likely start bench trials in June.

Bench trials will be scheduled in front of judges not on a Pod rotation in that week. Appearances will be in-person with social distancing, unless remote appearance by witnesses is stipulated to by both parties.

Settlement conferences

As part of addressing the backlog of trials, the Criminal Division intends to refer many cases to a pro tem judge for settlement conference.

It is believed that a significant number of cases will be disposed of by a plea agreement reached through settlement conference. We note that during the implementation of the CMO in SJDC, settlement conferences were utilized for the Special Calendar (old cases) with success; approximately 50-60% of the cases referred to settlement conference resulted in a plea. These settlement conferences are generally more abbreviated in nature than a settlement conference in a civil case; long mediation statements are not required and generally the conference takes about an hour. Parties are asked to review their case prior to the conference and to send someone to the conference with settlement authority. Thus, settlement conferences should not represent a significant resource hurdle for the parties.

Jury trials

We anticipate resumption of jury trials July 14, 2020. This is to allow ample time to utilize some mechanisms, such as special questionnaires and settlement conferences, as well as to ensure the courthouse is properly set up to accommodate jurors in public areas and courtrooms with social distancing. It is also our understanding that our justice partners will need additional time to staff jury trials as they are facing issues involving limited staff due to childcare needs.

When trials begin, it is anticipated to begin with one criminal trial per week, increasing to one criminal trial per day (scheduled on Monday, Tuesday, and Wednesday) for a total of three trials per week.⁴ Three- and four-day trials will be scheduled to begin on Monday, two- and three-day trials on Tuesday, and one- and two-day trials to start on Wednesday. This schedule will allow

⁴ The Criminal Division will gradually work up to holding four or five trials as week, depending on changes in the on-going restrictions and circumstances. We anticipate restricting the number of trials to three-per-week in through August and likely September. We are hopeful this number might be increased in October or November if it is safe to do so at that point.

the criminal judges to remain on the Pod schedule (see above) by limiting trials to those judges not in a Pod rotation that week in order to maximize the use of remote hearings, minimize the need for transportation of inmates, ensure only one voir dire is happening a day in the Criminal Division, and keep the number of individuals in the courthouse to manageable limits within social distancing guidelines.

We note that another reason that we are initially emphasizing trial length is that there is a general concern that we will have difficulty with cases that require larger juror panels and that length of trial is often associated with the necessity to require a larger juror panel, with the exception of homicide cases. In short, we are concerned about our initial ability to draw in enough jurors to hold a rape trial or child sex abuse trial, though we are attempting to mitigate that problem through the use of special questionnaires (see below). See *Managing Juries and Jury Trials During COVID-19* by the NCSC Center for Jury Studies available at <https://www.ncsc.org/~media/Files/PDF/Newsroom/Coronavirus%20Webinars/Juries-COVID-19-Webinar.ashx> (last visited May 19, 2020). We believe that it is imperative to start with cases where we are likely to pull in enough jurors to go forward with the trial—calling jurors in and then having to send them home because we cannot get enough jurors to seat a jury would be difficult for the parties, the jurors, and the Court. However, once we have resumed jury trials and have some experience under the temporary system, we will schedule the longer trials based on age of case and how long an individual has been in custody. If necessary, judges may then be switched to two-week Pod rotations to allow for longer trials to take place.

Criminal trials will be scheduled and prioritized based on custody status (in-custody defendants take precedence), the length of trial, the length of the term of custody, and age of the case.

Trials expected to last longer than 4-5 days, trials with out-of-custody defendants, and newer cases will initially be continued while the Criminal Division works through the backlog of older cases with in-custody defendants.⁵ We will then prioritize the remaining in-custody cases, based on how long the defendant has been in-custody and the age of the case. After those backlogged cases have been heard we will turn to out-of-custody cases.

Criminal jury trials will be scheduled with only one trial per floor of the courthouse and will utilize the largest courtrooms to allow for maximum social distancing.⁶ The public and media

⁵ Some cases lasting longer than 4-5 days may initially be scheduled where special circumstances dictate (such as speedy trial concerns or at the request of both parties). We will adjust the Pod calendars as necessary to accommodate those trials.

⁶ On May 19, 2020, the SJDC received correspondence from DA Torrez to Councilor Pat Davis requesting that jury trials be conducted at the Albuquerque Convention Center. The Court was not separately consulted about this request. At this time, we do not feel such an option is necessary or beneficial given the increased staffing and security such a move would require. We also note that it appears that jurisdictions utilizing this option are experiencing some issues in doing so. For example, the Indiana Supreme Court's Office of Judicial Administration, in its *Resuming Operations of the Trial Courts: COVID-19 Guidelines for Indiana's Judiciary* notes the following concerns: difficulty in recording proceedings; acoustic challenges between jurors, attorneys, and court, common to large venues where parties are

will be allowed to view the trial; in many cases that will be via video feed from separate courtrooms to ensure maximum social distancing.

We have now assembled a sample courtroom (Courtroom 338) and were able to comply with social distancing requirements in that courtroom with fairly significant modifications to the layout. With the modifications, we were able to provide seating and walk-ways with six-foot social distance radius for the judge, court monitor, bailiff, witness, two security personnel, 15 jurors, two district attorneys, one to two defense attorneys, defendant, victim, one media person, and two audience members (though we plan to have a video feed to another room in the courthouse for audience members, rather than having them in the courtroom). Once we have assembled the three courtrooms set up for trials with the proper social distancing, those courtrooms will remain the “jury trial” courtroom and judges scheduled to preside over jury trials will rotate into the courtrooms. We are also looking at purchasing communication devices, similar to what interpreters use, except that they allow for two-way communication, to use for bench conferences and to allow defense counsel to have private conversations with his or her client. Finally, in addition to the installation of semi-permanent plexiglass around the witness stand, judge’s bench, and monitor station, we are requesting funds for moveable plexiglass barriers that we can station in various areas of entry and egress where six-foot distancing is not feasible.

Use of special jury questionnaires

Along with the jury summonses, a special COVID-19 questionnaire will be sent to potential jurors and will allow for deferred jury service (rather than excusal) based upon specific COVID-19 concerns. In line with best practices, one deferral will be granted as a matter of right. *See* Managing Juries and Jury Trials During COVID-19 by the NCSC Center for Jury Studies, *supra*. Any subsequent jury service deferral requests will be screened for good cause by the judge assigned to grand jury duty. *See* Resuming Operations of the Trial Courts: COVID-19 Guidelines for Indiana’s Judiciary, available at <https://www.in.gov/judiciary/files/covid19-resuming-trial-court-operations.pdf> (last visited May 19, 2020).

Closer to the trial date, the Criminal Division will use another special questionnaire related to factors more specific to the upcoming trial; each case will be reviewed by a staff attorney to identify issues in that trial and make recommendations to the judge regarding additional questions that might be included in the special questionnaire. The Court will then allow the parties to

spread out, may require audio amplification system; unfamiliar surroundings to employees, litigants, and jurors; cost to rent and/or clean remote venue; security and accessibility may not be equal to courthouse security; may require a larger draw of prospective jurors; greater risk of exposure to COVID-19 due to increased traffic into a central location. Pg. 28. Moreover, we are concerned that utilizing the Convention Center would unnecessarily delay the resumption of trials as such a move would require significant additional time to put into place. While the convention center might be an appropriate venue for civil trials (see Civil Division plan), the Criminal Division does not believe that it is practical for criminal trials, given the enhanced security issues and constitutional protections. We are, however, willing to consider DA Torrez’s proposal in terms of convening grand jury as some of the trial issues are not applicable to grand juries.

remotely confer and excuse jurors for time, hardship, and “for cause” conflicts prior to having the jurors report for service. *See* Managing Juries and Jury Trials During COVID-19 by the NCSC Center for Jury Studies, *supra* (recommending the use of written questionnaires and remote pre-screening for time, hardship, and for cause conflicts).

It is anticipated that early deferrals and excusals will reduce the number of jurors needed to be called into the courthouse and may help with successfully seating a jury.

Voir dire and jury handling

Voir dire will be conducted in our large jury room which allows for a gathering of larger groups of people while observing strict social distancing.

Smaller jury pools will report at staggered times, and voir dire will be conducted in separate portions. For example, if a panel requires 50 jurors, rather than having 50 jurors report at once, 25 jurors will report in the first half of the morning and 25 in the second half of the morning. Voir dire questioning may be limited to keep matters on schedule. We will work with the jury division to call in the lowest number of jurors possible based on historical data about the numbers needed for jury panels.

We have measured our large jury room and explored how to arrange that room to meet social distancing requirements. We are exploring three options: conducting voir dire in the jury room itself, conducting voir dire via video feed (with the jurors in the jury room and the parties and judge in a courtroom), and a mix of the two. If we use the jury room for voir dire with the parties and judge in the same room, we can have the following in the jury room while observing social distancing: judge, monitor, corrections officer, DA, defense attorney, defendant, and 21 jurors. If we use a video feed and have the judge and associated personnel in the courtroom (and jurors in the jury room), then we could up that number to about 25 jurors because of the need for camera equipment, etc., in the jury room. Using a mix of the two systems, would allow void dire for potentially 35 jurors at the same time.

We held a Mock Trial on July 6, 2020. That Mock Trial demonstrated that our technology is not yet sufficient to conduct the mixed jury selection in such a way that ensures jurors in both rooms are able to see and hear everything clearly. The Criminal Division will therefore be calling jurors in for a.m. and p.m. panels for the foreseeable future.

In order to limit the number of people in the courthouse, we intend to institute a telephone “check-in” for jurors the day before the trial. Jurors would be instructed to call the jury division the day before and do an over-the-phone check in. The idea is that individuals that call in will be more likely to actually show up on the day of voir dire. Once we reach a certain number of check-ins, we would likely tell remaining jurors not to show up when they call. This should limit the number of jurors we have to bring in. Also, we are exploring the option of sending jurors home

once we have filled up the seats available, though there may be an overflow area where we would have a few jurors wait in case they are needed.

Once the jury is selected, the jurors will report to a courtroom adjacent to the courtroom where the trial is to occur. Jurors serving on jury trials in Courtroom 338 will be instructed to report to the third-floor conference room. This “jury deliberation courtroom” will be used instead of the jury room off the courtroom to allow for maximum social distancing during court recesses and jury deliberations. *See* Managing Juries and Jury Trials During COVID-19 by the NCSC Center for Jury Studies, *supra* (recommending using larger gathering rooms and empty courtrooms for jury deliberations). In essence, whatever courtroom is designated as a “jury deliberation courtroom” would become one large jury room. Signage and seat markings will be placed in the “jury deliberation courtroom” to ensure social distancing.

The SJDC Purchasing Division, Administration, and Criminal Division staff are working through various courtroom layouts to determine the optimal configuration to comply with the recommended social distancing between the jury, court staff, and the parties and attorneys while ensuring all involved are fully engaged in the process of the trial. We have now assembled a sample courtroom (Courtroom 338) and are able to comply with social distancing requirements in that courtroom with modifications to the layout.

With the modifications, we were able to provide seating and walk-ways with six-foot social distance radius for the judge, court monitor, bailiff, interpreter, witness, two security personnel, 15 jurors, two district attorneys, two public defenders, the defendant, victim, one media person, and one or two audience members (though we plan to have a video feed to another room in the courthouse for audience members, rather than having them in the courtroom). Once we have assembled the three courtrooms set up for trials with the proper social distancing, those courtrooms will remain the “jury trial” courtrooms, and judges scheduled to preside over jury trials will rotate into the courtrooms. We have also installed headsets that allow for two-way communication between counsel or attorney and counsel. With regard to bench conferences, the parties will use one of several possible means to converse with the judge. In some cases the parties will need to move to another room to have a discussion; in other cases they will be able to use a chat application for the bench conference. Finally, in addition to the installation of semi-permanent plexiglass around the witness stand, judge’s bench, and monitor station, we are requesting moveable plexiglass barriers that we can station in various areas of entry and egress where six-feet distancing is not feasible.

Addressing Justice Partner Concerns Regarding the Resumption of Jury Trials

We have consulted with our justice partners (LOPD, DA, and private defense bar) concerning the resumption of jury trials. Those stakeholders were provided a copy of the Court’s draft plan and a meeting was held to allow each stakeholder to offer suggestions and concerns. The DA’s office still prefers to conduct trials at the Convention Center, however, they participated in

providing feedback. LOPD and the private defense bar generally agree with the outlines of our plan, subject to the concerns outlined below.

The justice partners provided the following feedback concerns. The Court's response is noted below each concern. SJDC also held a Mock Trial on July 6, allowing each justice partner to send representatives to be part of the process and identify any additional areas of concern. We are currently collecting and reviewing the feedback forms from the Mock Trial and will make adjustments as possible based on that input. We also have another meeting scheduled for July 13 to further discuss additional ways to use technology. All of the justice partners were in favor of the mock trial as a means of identifying any additional areas for discussion/improvement.

1. Both LOPD and the DA's office are concerned about peremptory challenges. One of the individuals said that they had heard the Supreme Court was considering reducing or eliminating preemptory challenges; both offices are against that idea.
 - a. The Criminal Division is not taking a position on that issue.
2. The DA's Office, LOPD, and the private defense bar are all concerned about the ability to hear juror responses during voir dire. They are also concerned about the ability to hear witnesses and attorneys if all are required to wear face masks.
 - a. The Criminal Division shares these concerns. In terms of voir dire, we are looking at using lapel microphones; we are also looking at ways to upgrade our courtroom sound systems.
 - b. With regard to witnesses, the Court's proposal anticipates plexiglass surrounding the witness stand. However, as per ERT's Response, witnesses—as with all other individuals in the courthouse--will still be required to wear face masks, even during testimony. We are looking into purchasing some clear face masks that could provide for better viewing of facial expressions. We have also offered the option to parties to stipulate to witnesses appearing remotely (and thus without face masks).
3. All of the stakeholders were concerned about communication between counsel, co-counsel, and the defendant.
 - a. We believe that the sound devices we are looking at will take care of this issue. Those devices are similar to a CB radio with headphones. A channel can be assigned to different types of communication. For example, channel 1 could be assigned for bench conferences, channel 2 could be assigned to the prosecution for communication between counsel, and channel 3 could be assigned to defense counsel and the defendant. The parties agree that this should address the issue.
4. The DA's office raised concerns about: the publication of evidence, whether equipment/plexiglass/benches/tables would be disinfected between each individuals' appearance, out-of-state witnesses, ensuring that parties are offered time to address

outstanding issues before a trial is scheduled, and ensuring there is room for a case agent at the counsel tables in homicide trials.

- a. With regard to the publication of evidence, the Court anticipates a couple of possible remedies. First, the installation of plexiglass around the juror and witness boxes will help so long as the plexiglass has a small pass-through window for pieces of evidence. Second, there are ways to use our smart courtroom technology to address issues related to publication of evidence, though not all of the courtrooms contain such technology. This is an issue that will be further discussed at the upcoming July 13 meeting.
 - b. With regard to disinfecting areas, the SJDC will disinfect areas such as the witness stand between uses. Each courtroom is already equipped with a sanitation basket—which includes disinfectant wipes, hand sanitizer, and other disinfectant. We have also placed disinfectant on each counsel table for their use.
 - c. In terms of out-of-state witnesses and ensuring the parties are offered time to address outstanding issues, the Court's plan takes those concerns into account. Judges will be reaching out to the parties in those cases identified and scheduled for trial in July to address those concerns. It is likely that trials in cases with out-of-state witnesses will be addressed after cases where witnesses are in-state. We do not anticipate very many cases having out-of-state witnesses.
 - d. We have few homicide trials that need to be scheduled, and we should be able to reconfigure the courtroom setting to allow for a case agent to sit at counsel table in those cases.
5. The private defense bar voiced concerns about identifying jurors who report and refuse to wear face masks or answer questions and our configuration of the courtroom to have security near the front of the courtroom (because it should not be clear to the jury that defendant is in-custody).
- a. With regard to the issue of jurors who report but refuse to wear a face mask, we intend to refuse those individuals entry to the courthouse. We will likely have either a sign-in sheet for jurors or a form to fill out that can be provided to the parties to indicate jurors who appeared but were refused entry and why they were refused entry.
 - b. We were able to reconfigure our courtroom set-up to place security in other places in the courtroom. For example, in Courtroom 338, there is an area set off to the right and behind the juror box that is unusable for other seating and there is additional seating at the back of the courtroom; security could be placed in either of these areas out of the sight of jurors. The private defense bar was satisfied with this solution.
6. LOPD raised the issue of communication with clients prior to trial and also raised concerns about the ability to view a juror's facial expression during voir dire if the juror

was in a mask. They explained that lapel videos are hard to view on the “Getting Out” video system that is used to allow remote attorney/client visits. While it has worked for normal hearings, they are concerned that pre-trial meetings are essential.

- a. We will look at providing Polycom time for pre-trial meetings. LOPD agreed that the Polycom system is superior to GoogleMeets and the Getting Out system in terms of video feed and clarity. In essence, the Court can set up a status conference, but only have LOPD and their client in the meeting to allow them to communicate immediately prior to trial. We believe we can fit this into the Polycom schedule or set up a new schedule to follow the current time blocks.
- b. Another opportunity for meetings will likely exist at trial: we can add some additional time to normal breaks to allow attorney/client conference. LOPD agrees with both of these options and we will continue to look for other avenues to facilitate communication.
 - i. We have also added a status hearing prior to trial where the parties have time to look at the new set-up, address trial issues, and generally ask questions. There is some time for client communication during these pre-trial status hearings as well.
- c. In terms of viewing a juror’s facial expression, we will follow the New Mexico Supreme Court’s rule requiring face masks at all times. We are looking into clear face masks to possibly be used with witnesses, but believe purchasing said masks for jurors would be prohibitively expensive.

Grand Jury

SJDC is looking at a variety of mechanisms to resume some grand jury time after the start of trials. We plan on utilizing remote technology for grand jury orientation and limiting the number of individuals who will be required to appear in person. Grand jury presentations and deliberations will likely be done in a courtroom or other large room, and social distancing will be ensured.

We are looking at resuming grand jury shortly after the resumption of trials. SJDC has been working with justice stakeholders and conducting both in-custody and out-of-custody preliminary hearings during this emergency. At the DA and Metropolitan Court’s request, SJDC has recently increased the number of preliminary hearings.

Keeping the public, employees, and judges safe

To the extent possible, those staff who are able to complete job duties at home will continue to telework. Additionally, vulnerable employees or those caring for vulnerable individuals will continue to telework. *See* Considerations in Resuming Court Operations: A Pandemic Resource from NCSC, available at <https://nationalcenterforstatecourts.app.box.com/s/n7w8zu89tbayfjr0qz6h7mn6nrg0x6qh/file/660117582540> (last visited May 19, 2020).

All staff and judges, as well as courthouse visitors, jurors, parties, and attorneys in the courthouse will be required to wear a face mask.

Cleaning supplies have been provided to court employees who are instructed to frequently sanitize commonly used areas.

Signage and markings will ensure proper social distancing.

Elevator capacity will be reduced to one to two individuals per car for the smaller cars and three individuals for the larger elevators. *See* NCSC COVID-19 and Courthouses Planning to Get Back to Business Inside the Courthouse, available at <https://vimeo.com/419071777> (last visited May 19, 2020) (discussing choke point caused by limiting elevator capacity and limiting capacity in elevators using signage, waiting protocol, and conductors to direct people into elevators).

Court staff and the public will be screened prior to coming to the courthouse, including having their temperature checked, and will be instructed not to come to the courthouse if they are answer in the affirmative to any of the screening questions. An employee with a temperature or other symptoms will be asked to self-report to supervisors, stay home, and call their physician or the NMDOH COVID-19 hotline.

Appearances of defendants with vulnerable health will be excused where practical, and vulnerable people called for jury duty will, when requested, have jury duty deferred.

Staff and the public will be asked to limit travel within the courthouse where possible so that in the event of illness it will be easier to trace where an individual has travelled within the courthouse and with which individuals they may have come into contact. *See* Supreme Court of Virginia, Pandemic Continuity of Operations Planning: Reconstitution, available at http://www.vacourts.gov/news/items/covid/2020_0511_recovery_guide.pdf (last visited May 19, 2020) (recommending cohort scheduling where groups of employees only work with employees within their group).

Challenges and needs

Resuming trial while COVID-19 restrictions remain in place will require additional resources in terms of staffing, security, equipment, and space.

To maintain social distancing while allowing for public access to the courts, it is anticipated that at least two to three courtrooms/large rooms will be needed for each jury trial taking place. Under the Criminal Division's proposed plan, one courtroom will be used for the trial, one courtroom (or the third-floor conference room) will be used for the jury during recesses and jury deliberations, and one courtroom/conference room will be used for the public to view the trial via video feed. Additionally, in maintaining the Pod system, five courtrooms will be used daily by the judges in Pods. As the trial schedule ramps up to three trials per week, the Criminal Division may use up to 10 to 14 courtrooms; they are currently assigned 9 courtrooms. The Criminal Division

is currently exploring options for holding remote hearings (non-jury trial) in locations other than a courtroom in order to minimize the need for courtrooms.

As jury trials ramp up, more staff will be necessary. Security will be needed in the trial courtroom and the courtroom where the public is watching the trial. Bailiffs, court monitors, court reporters, and clerks will be needed for Pod courtrooms and trial courtrooms.

We anticipate the need for a significant amount of plexiglass in the courtrooms. Plexiglass should be installed around the judge's bench, the witness stand, the jury box, the court monitor's station, and the clerk's station. Portable plexiglass barriers should be widely available to section off areas as needed. Plexiglass barriers will need a small pass-through window to allow the publication of evidence to the judge, witness, and jury.

We also anticipate the need to purchase additional technological equipment such as additional headsets and sound equipment.

Second Judicial District Court Civil Division **Consolidated Resuming Operations Plan**

The following is the Second Judicial District Court ("SJDC") Civil Division's Consolidated Resuming Operations Plan ("Plan"). The Plan incorporate all prior plans and recommendations and suggestions from the Emergency Response Team ("ERT") Memo of June 29, 2020.

The Civil Division has reached out to and been contacted by members of the bar in response to resuming in-person operations and jury trials. This Plan considers the concerns and comments voiced by the bar.

Managing the number and protection of people in the courthouse

Continuation of Remote Hearings

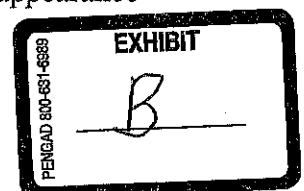
The Civil Division plans to continue holding the majority of hearings remotely. For those hearings where an in-person hearing is required, either because of the nature of the hearing or if a party, including a self-represented litigant, does not have the ability to participate remotely, judges will ensure that social distancing is practiced and that the courthouse's rules are enforced, i.e., face coverings and screening prior to entering and face coverings while in the courthouse.

Currently, self-represented litigants needing assistance can still obtain general information and forms from the Dispute Resolution Center. Individuals who need assistance can call or email, if they have a phone or a computer. Three phone lines are available from 9 AM until 4 PM, Monday through Friday, for English and Spanish speakers, and individuals can also e-mail the Center. If a self-represented litigant comes to the courthouse, two phones are available for their use on the first floor. Phones at Self-Help Window #1 and in the jury division automatically connect to a staff member. Additionally, free information packets are available near the information desk, as well as at the Civil Counter.

In light of the prediction that COVID 19 is likely to result in periodic spikes in the community, along with the expected increase in COVID-19 cases in the fall/winter months, the Civil Division requests that additional technology be purchased to allow for remote hearings, jury selection and trials so that when scaled-back operations are necessary, we have a greater ability to conduct court business using available technology that takes into consideration the many types of cases that the division handles, as well as the fact that delaying hearings is inefficient, expensive, and leads to a greater backlog of cases. The Civil Division requests that the current policies regarding the judiciary's use of Zoom and the prohibition on GoogleMeets recordings be reconsidered. We believe that appropriate protocols can ensure the integrity of hearings via Zoom and that allowing GoogleMeets recordings will be a backup in the event that there is a shortage of court reporters/monitors.

Accommodations

Continuances will be granted without penalty when any party is unable to appear because of illness or when caring for someone ill or when other COVID-19 related complications prevent appearance



such as issues with childcare or when one of the parties appearing in person has been instructed not to enter the courthouse after screening at the entrance.

Courtrooms will be structured to ensure social distancing. If in-person hearings are conducted, the courtrooms are cleaned between each hearing. Thus, trailing dockets may not be possible to allow for social distancing.

The SJDC has ordered plexiglass to install in various locations throughout the courtrooms and hearing rooms where social distancing cannot consistently be maintained. Until the plexiglass has been installed, temporary measures will be taken which may include using only the larger rooms and moving the court reporter/monitor and witness stands farther away from the judge's bench. In addition to installing plexiglass, courtrooms and hearing rooms will be or have been configured and marked to ensure the social distancing requirements.

The focus on reconfiguring and placement of plexiglass will be on the ability to social distance and maintain six feet between individuals in all directions, utilizing plexiglass in those instances where social distancing is impossible. In situations where social distancing cannot accommodate the public in the courtroom, the proceedings will be viewable by the public and media via video feed from a separate room ("audience room") where social distancing will be observed. Seating will be marked off to ensure six feet of distance per person. Depending upon the number of individuals from the public wishing to view the proceedings, the viewing room may be a conference room, hearing room or available courtroom.

In order to limit the number of people in a courtroom, the media may also be asked to view the proceedings from the audience room or be required to share feeds so only one camera/media person is present in the courtroom.

Alternatives to In-Person Filings

The Civil Division will continue allowing electronic or fax filing for attorneys and self-represented litigants for guardianship/conservatorship cases. Self-represented litigants can continue to fax file or send pleadings to a designated email address for general civil cases, as well as appeals. Attorneys will continue to be allowed to file pleadings via fax and email for case types not currently allowed by the rules for e-filing. For individuals who do not have access to a fax machine or computer, they can still come to the courthouse and leave pleadings on the first floor for every civil judges' office rather than go to the judges' floors. Bailiffs retrieve the drop-offs several times a day.

Jury Trials

The Civil Division and Criminal Division will conduct jury trials in a similar manner. The plan for jury selection as discussed in other parts of the SJDC's plan will be utilized by the Civil Division and will not be restated in this Plan.

Bench trials

Bench trials will be utilized where parties waive a jury trial. The Civil Divisions intends to offer the parties the opportunity for bench trials as part of clearing the existing backlog. As bench trials

will be logistically less complicated than jury trials, bench trials could start at an earlier date than jury trials.

Jury Trials

The Civil Division currently plans to hold its first jury trial on July 21, 2020. A settlement was reached in the case set for a jury trial scheduled for July 13, 2020. Although it is not anticipated that plexiglass will be installed by this date the Civil Division is confident that social distancing can be maintained by moving the witness stand and court monitor stations farther from the judge's bench until the plexiglass is installed. Parties will be asked not to approach the witness. Any exhibits a witness may be asked to review will be provided by the parties to the witness in advance of trial.

Courtrooms 520 and 720 will be reconfigured to accommodate 12-person jury trials with appropriate social distancing. Civil has provided photos of one of the courtrooms, 520, set up for social distancing. This photo assumes the installation of plexiglass, but can be slightly reconfigured should plexiglass not be installed by July 13, 2020. *See Pictures of courtroom 520 set up for social distancing and the jury room.* Courtrooms 502 and 602 will be reconfigured to accommodate 6-person jury trials.

While many parties request a 12-person jury, the Civil Division will encourage 6-person juries so that a smaller number of citizens are called for jury duty. Reducing the size of the venire panel will reduce the amount of citizens called for jury selection. The Civil Division's judges believe it appropriate for the jury division to summons less jurors, subject to the judge's authority to require more jurors for the selection process. This is sometimes necessary because one of the parties (usually the Defendant), is a party with whom many members of the community have had experience, i.e., UNMH, Presbyterian, Lovelace, City of Albuquerque, and insurance companies.

A master calendar is being developed for rotation of the designated courtrooms for jury trials. Judges will use other courtrooms and hearing rooms for non-trial hearings to accommodate the designated courtrooms being available for jury trials. As it is anticipated that the majority of these non-jury trial hearings will be conducted remotely, the Civil Division does not anticipate a large amount of congestion created by the non-trial hearings.

Based on the courtroom capacity and configuration of counsel tables, counsel will be limited in the additional staff or attorneys who may be present in the trial courtroom. Additional staff will be able to observe the trial from the public viewing room.

The Civil Division intends to have jury deliberation take place in the trial courtroom. The courtroom will be cleaned prior to jury deliberations while the jury waits in the hallway seating area. Areas not occupied by the jurors will be cleaned at the close of the case and the courtroom will be blocked off from the public. Jurors will have access to the bathrooms in the courtroom's attached jury room, which will be marked off for social distancing, and which are accessible only to jurors and cleaned daily by the Bernalillo County custodial staff. Any issues needing to be addressed during jury deliberations will be addressed by the parties and the Court in an available hearing room.

In the event of court recesses, or where lengthier issues need to be addressed outside the presence of the jury, the jury will be moved into an adjacent courtroom while the issue is discussed. Although the jury will deliberate in the trial courtroom, the logistics of moving the parties, trial materials, personal items, and securing exhibits every time there is a lengthy discussion outside the presence of the jury, makes moving the jury much less time consuming. The bailiff will guide the jurors to the adjoining courtroom and jurors will have access to the bathroom in the adjoining jury room during recesses. Any areas used by the jury during this time will be cleaned after the jury's use.

The witness stand will be disinfected between witnesses and hand sanitizer will be available at the witness stand. Parties will be encouraged to provide exhibits to the witnesses in the form of a witness notebook before trial. However, any exhibits being passed to the witness will be placed in a plastic sheet cover that will be wiped down by the bailiff and handed to the witness through a space at the bottom of the plexiglass on the witness stand.

Off-Site Jury Trials

The Civil Division is aware of the limited number of courtrooms and space issues as the result of social distancing requirements, the need to manage the number of people in the courthouse, and the additional space that may be needed to accommodate jury trials. The Civil Division is appreciative of Family Court's offer to share its courtrooms. However, unlike an average trial which may be accommodated by existing courtrooms with social distancing, larger trials with multiple parties, counsel, and which may last for longer than a week may require use of an off-site venue.

At this time a suitable off-site location has not been found. Considerations in determining the suitability of an off-site location include logistical issues such as location, cost, security, equipment, audiovisual capability, parking, and ongoing availability. Working with the City of Albuquerque we have identified several potential locations and the Civil Division may also inquire about the availability of the State Bar Center and UNM facilities. In particular, the convention center has appeal because it's walking distance from the courthouse and has many rooms which can be used to conduct jury selection simultaneously. In light of the fact that conferences and large meetings are not likely to occur in 2020, the convention center is likely to be available for use by the court.

The Civil Division received feedback from the bar on this issue and many liked the idea of an off-site venue, but acknowledged the inherent logistical issues that need to be addressed. The Civil Division will continue to investigate potential sites.

Scheduling

Cooperation between the divisions will be necessary to ensure multiple trials are not scheduled to begin on the same day. The Civil Division is aware of the Criminal Division's plan to resume jury trials and has agreed to generally begin civil trial voir dire on Thursdays and Fridays, for two trials per week in the Civil Division. This plan will accommodate the Criminal Division's plan of three trials per week with voir dire beginning Monday, Tuesday, and Wednesday. In some instances, it

may be difficult or impossible for the Civil Division to start voir dire on a Thursday or Friday. The divisions will therefore work cooperatively with each other and with the jury division so that only one voir dire per day is conducted.¹

It is anticipated that voir dire will take longer because of safety protocols with some jurors in the courtroom and others in the jury division for voir dire, as well as anticipated communication issues caused by the use of masks. It is anticipated that by staggering voir dire where necessary (for larger jury pool), the foot traffic at the courthouse will be more manageable.

The Civil Division will start with smaller, less complex trials requiring less courtroom space and time. Starting with smaller, less complex cases will also require fewer jurors reporting for voir dire.

More complex trials, in addition to requiring more space, may require calling in a larger venire. If a venire larger than 37 prospective jurors is needed, voir dire may be separated into multiple days or mornings and afternoons.

Exhibit Notebooks.

As previously discussed, parties will be instructed to provide exhibit notebooks for each juror, the judge, opposing counsel, witnesses, and the court reporter/monitor. Each juror will be provided their own notebook/binder. At the end of the day, the exhibit notebooks will remain in the courtroom on the juror's designated seat, along with their bag containing hand sanitizer, pen, and notepad. The bailiff will secure the courtroom upon the prompt departure of counsel and parties to ensure that no one has access to the courtroom once the jurors adjourn for the day. The bailiff will be responsible for cleaning the juror seats, counsel tables, and other used areas of the courtroom. No one will enter the courtroom unless the bailiff or a member of the judges' staff is present in the courtroom. If a contested exhibit is not admitted until later in the trial (foundation, relevance, authenticity issues, etc.), then the exhibit will be provided to the jurors in a plastic insert that can be disinfected by the bailiff. Enough copies will be provided to ensure the jurors do not have to pass around exhibits.

Each juror will also receive their own set of jury instructions to eliminate the need for passing around the instructions.

Juror questions during trial:

When jurors need to communicate with the Court during a trial, they will be instructed to use their provided notebooks to write any questions on a sheet of paper. The notebook paper will be placed into a Ziploc bag which will be sanitized by the bailiff before being handed to the judge and placed into the record.

¹ For example, the civil division had a trial scheduled to begin on Monday, July 13. Civil Division worked with the Criminal Division who had also planned to start a trial that day and the Criminal Division was able to move its start date for trials to July 14.

Proposed Introductory Jury Instruction

The Civil Division has included a proposed introductory jury instruction which it received from the New Mexico Trial Lawyers' Association on COVID-19. Some version of the proposed instruction should be considered.

Settlement deadlines.

In accordance with Supreme Court Order No. 20-8500-022, the Division will strictly enforce, except in the case of extraordinary circumstances, settlement deadlines to occur no later than 5 days before the date scheduled for jury selection or bench trial. To assist the parties' compliance with Supreme Court Order No. 20-8500-022, the Court will endeavor to decide pretrial motions on a timely basis before trial commences. The Court may also require a final status or settlement conference prior to trial, before the Order's settlement deadline.

Concerns regarding witnesses and parties

The Civil Division believes it will be necessary for judges to be flexible with regards to in-person testimony. More remote appearances may be authorized for witness testimony. While the Division will not delay proceedings where there are out-of-state witnesses and will allow for remote appearances where requested, the members of the bar have raised an issue that jury instructions may need to address the remote appearance of witnesses. The Civil Division will, on a case-by-case basis, pursue and implement the modification of the witness testimony instruction to explain remote appearances by witnesses.

Members of the defense bar have also raised concerns as to the appearance of out-of-state clients for trial in New Mexico. Although Executive Order 2020-054 allows individuals to travel to New Mexico without self-quarantine pursuant to a Court order, members of the defense bar are concerned with the cost associated with out-of-state parties having to travel to New Mexico in advance of trial for the currently required period. The parties to the case would not necessarily be travelling pursuant to a court order. The Division will address this issue on a case-by-case basis, but seeks additional guidance from the ERT.

Modification of the court-mandated form for subpoenas to inform witnesses who may have a health concern to notify the Court may be necessary.

Use of special jury questionnaires

The Civil Division will be using special jury questionnaires, taking into consideration the recommendations of the ERT regarding the Criminal Division's original plan. The questionnaire will stress the importance of trials to the pursuit of justice and the need to maintain proper safety protocols. The questionnaires will be related to more specific factors of the case. Based on the answers to the questionnaire, the Court will allow the parties to remotely confer and request excusals of jurors for time, hardship, and "for cause" conflicts prior to having the jurors report for service. See *Managing Juries and Jury Trials During COVID-19* by the NCSC Center for Jury Studies, *supra* (recommending the use of written questionnaires and remote pre-screening for time, hardship, and for cause conflicts).

It is anticipated that early deferrals and excusals will reduce the number of jurors needed to be called into the courthouse and may help with successfully seating a jury.

Voir dire

The process of selecting a jury and the safety protocols employed in selecting a jury have been addressed in several parts of the SJDC reopening plan and will not be duplicated here. However, the Civil Division supports holding jury selection in multiple locations in the courthouse and possibly over multiple days in some instances to accommodate a sufficient venire while complying with social distancing guidelines.

Confidential Communications

Technological options available for confidential communications during bench conferences and for attorney/client conversations are being explored. There are currently headsets available at counsel table to allow for confidential attorney/client communications. A viable option also being explored by the SJDC are wireless headsets with multiple channels available for bench conferences, which is discussed more fully in other parts of SJDC's plan. The Civil Division agrees with the use of such technology. The use of any technology will be provided to the court reporter/monitor/interpreter to ensure the record is preserved.

Additionally, the parties will be provided notepads and sanitized pens to communicate with each other via written communication. Sometimes, however, the parties may be unable to communicate through writing and will have to utilize the technology available to communicate verbally. Hand sanitizer will be available at counsel table on either side of the plexiglass partition.

Members of bar expressed interest in instant messaging or other technology to facilitate bench conferences which is also being explored by SJDC. Members of the bar have recognized the need for abbreviated objections and conferences.

Addressing Backlog

Cases that had hearings or trials delayed will be reset in a timely manner. In many instances, the judges are ruling on the pleadings rather than setting a hearing.

In addition to resuming jury trials, the Civil Division anticipates that the following case types will increase as a result of the pandemic: foreclosures, landlord-tenant, guardianships, and consumer debt cases. The Civil Division expects significant caseload increases especially as moratoriums/stays are lifted.

The Civil Division currently has a high caseload, but only has two programs available to assist the judges. The Elder and Disability Initiative (EDI) provides support to the judges for guardianship/conservatorship cases. The Foreclosure Settlement Program is a foreclosure mediation program. Both programs provide valuable assistance to the judges and the community. It is critical that both programs have the necessary funding to continue operating as they will be in high need by the judges and the community at large.

The judges would like additional resources such as pro tem judges or that there be a pro rata division of cases with cases from busy districts, i.e., 1st, 2nd, and 3rd, being assigned to districts that have smaller caseloads.

Keeping the public, employees, and judges safe

As jury trials and in-person hearings increase, additional staff will be required in-court. However, to the extent employees are not needed in-court, the Civil Division supports continued teleworking and rotational teleworking for those employees who are able. Additionally, vulnerable employees or those caring for vulnerable individuals will continue to telework. *See Considerations in Resuming Court Operations: A Pandemic Resource from NCSC*, available at <https://nationalcenterforstatecourts.app.box.com/s/n7w8zu89tbayfjr0qz6h7mn6nrg0x6qh/file/660117582540> (last visited May 19, 2020).

Face Masks.

In accordance with Supreme Court Order No. 20-8500-017, all staff and judges, as well as courthouse visitors, jurors, parties, and attorneys in the courthouse will be required to wear a face mask at all times, with those exceptions noted in the Order. Although concerns have been expressed regarding the ability of jurors to evaluate the credibility of witnesses who are wearing masks, the Civil Division understands the requirement that masks be worn by all people at all times, including witnesses behind plexiglass, and is committed to enforcing the face mask requirement.

Contact Tracing.

In accordance with Supreme Court Order No. 20-8500-023, the Civil Division will utilize the SJDC contract tracing log to track the name, phone number, address/email address, date of visit, and time of each person entering each courtroom and hearing room. The bailiff assigned to the courtroom or hearing room will ensure the information is obtained from each party, visitor, judge, and SJDC staff. The information will be retained for four weeks.

Challenges and Needs

Resuming jury trials while COVID-19 restrictions remain in place will require additional resources in terms of staffing, security, equipment, and space. If a suitable off-site venue or venues are found additional staff, security, and equipment will be needed.

Given the expected backlog and increase in caseloads as moratoriums and stays are lifted, it may be necessary to use pro tem judges.

To maintain social distancing while allowing for public access to the courts, it is anticipated that multiple courtrooms will be needed for each jury trial taking place. Under the Civil Division's proposed plan, one courtroom will be used for the trial, one courtroom/conference room will be used for the public to view the trial via video feed, and possibly one courtroom will be needed to house the jury during court recesses. Additionally, a hearing room will be needed to address any issues outside the presence of the jury while the jury is deliberating.

We also anticipate the need for the above-mentioned communication devices as well as the need to upgrade or purchase additional sound equipment.

SECOND JUDICIAL DISTRICT COURT CHILDREN'S COURT **EXPANDED SERVICES PLAN**

This is the plan of the Children's Court Division of the Second Judicial District Court ("SJDC") to expand and resume in-person proceedings where such can be safely accomplished. The following assumptions are made:

- Social distancing of a minimum of six feet per person remains in effect;
- No limits will remain regarding the number of people who may gather in one room of any building; rather the focus will be on limiting the number of individuals in any one area to the six-feet social distancing requirement;
- The use of face masks remains a requirement while in public and other employees;
- Out-of-State travel and quarantine provisions will continue to apply;
- Plexiglas will be available and installed in mid-June to at least one courtroom.

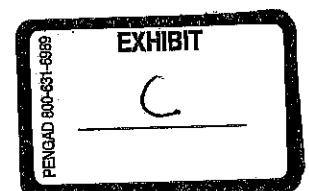
Managing and protecting the number of people in the courthouse

The Children's Court Division is currently conducting all types of hearings with the exception of Delinquency trials. All of the following types of hearings continue to go forward, conducted using a variety of technological means: pretrial conferences, detention hearings with both Metropolitan Detention Center ("MDC") and Youth Services Center ("YSC"), conditions of release, pleas, dispositions, competency, preliminary hearings where District Attorney/Children's Court Attorney (CCA) filed Notice of Intent to Seek Adult Sanctions, and substantive motions. In the Child Welfare cases, 10 day Custody hearings, Adjudications, Permanency/Judicial Reviews, Termination of Parental Rights, and Adoptions (both Department and Private). We do not intend to substantially modify court processes with regard to hearings; a "re-opening" or expansion in terms of hearings is not required because we have continued to conduct all of the necessary hearings. We do intend to implement additional safety precautions in-person proceedings, and resuming delinquency bench and jury trials.¹

In-custody hearings

The Children's Court Division will continue to use Videoconferencing and Pod system currently being used for in-custody MDC youth and youth at YSC. Currently there is on-going construction in the transport area from Juvenile Justice Center/Children's Court and YSC. Upon the completion of construction, Children's Court will assess having youth transported from YSC for hearings. This transport is through an internal courtyard space normally secured. During construction the plan was for youth to be brought around the Construction through a less secured

¹ This memorandum/plan generally follows the Supreme Court's requested format for answering the specific questions raised.



area. That process was never implemented due to changes in all hearings at the State of the State of Emergency Declaration

The current system involves the use of the YSC Pod and the five Pods available at the MDC. The Criminal Division outlined the procedures for adults in its plan and is not repeated here. Children's Court currently utilizes time for any detention and warrant hearings during a 30 minute set block each day. Additional, requests for inmate appearances are available for Inmates with Child Welfare A/N cases. This is coordinated with the Criminal Division to avoid any conflict Pod settings.

For these in-custody Pod hearings, the only individuals in the courtroom are the judge, a court monitor, usually a calendaring clerk, and a bailiff. There may periodically be media and public, but people physically in the courtroom are kept to a minimum. Documents and exhibits are exchanged via email to further limit contact between people. Witnesses appear either via PolyCom or telephonic conferencing bridge; family members and the media may listen via phone or may come into the courtroom or other designated location in the Courthouse where media carts display the proceedings to the audience. Social distancing is in effect in the courtroom or viewing room.

SJDC has been in contact with its justice partners (Children Youth and Families Department (CYFD), MDC, YSC, the Law Offices of the Public Defender, Child Attorney ("CA"), the private defense bar, and the District Attorney's Office, Children's Court Attorneys ("CCA")) and there is general agreement that remote proceedings for in-custody individuals should continue for the foreseeable future, except as outlined for jury trials and bench trials (discussed below).² We believe YSC and MDC's success in generally keeping COVID-19 out of the facilities (with only three positive tests at MDC and none at YSC) is in large part due to limiting transport for inmates or youth, which significantly reduces exposure.

Out-of-custody hearings

The Children's Court Division will continue to hold the majority of its Child Welfare and Delinquency out-of-custody hearings remotely via GoogleMeets. Only if a party does not have access to the equipment to appear remotely or other unusual circumstances exist will they appear in-person. The Children's Court is working with CCIC to obtain equipment and set up rooms for access to video conference participation in hearings where that is requested or required. A computer monitor and phone will be available to allow video screens to be placed on mute, but for counsel and client to communicate during an extended hearing or trial. To the extent possible, the physical appearance of litigants will be excused when requested and the parties may continue through remote hearings. Witnesses are allowed to appear remotely by videoconferencing. The

² The only anticipated transport from MDC will be for jury trials and for hearings with exceptional circumstances in which the Chief Judge has approved transport. Transport from YSC will be evaluated after construction is completed. This does not preclude Motion for In-Person appearances being filed and considered with the Court being able to address procedures.

default for these hearings is GoogleMeets; parties must contact the judge's office prior to the hearing if any party intends to appear in-person or requests to appear remotely through alternative means.

If appearing in person, litigants will be instructed to self-screen before entering the building. Litigants and the public entering the courthouse are asked a number of questions regarding health and travel and instructed not to enter if answering in the affirmative to any question. Hand sanitizer is available in several areas throughout the courthouse along with hand-washing stations. Court staff members have been provided cleaning supplies and have been instructed to sanitize public and commonly used areas. Court staff and members of the public will be required to wear face masks and observe social distancing while in the courthouse. The Court is anticipating installing Plexiglas protection in various areas of the courtroom, including the monitor's station, the judge's bench, the witness stand, and potentially counsel tables.

As the Children's Court Division will be continuing primarily with remote hearings, the number of people in the courtroom/courthouse should be kept to a minimum. The Children's Division has conferred on settings and stakeholders generally agree with the outlined process for Child Welfare and out-of-custody Delinquency hearings.

Accommodation, especially where in-person appearances are necessary

Continuances will be granted without penalty when any party is unable to appear because of illness or when caring for someone ill or when other COVID-19 related complications prevent appearance such as issues with childcare or when one of the parties appearing in person have been instructed not to enter the courthouse after self-screening at the entrance.

Courtrooms will be structured to ensure social distancing. The SJDC Purchasing Division, Administration, and Children's Court Division staff are working through various courtroom layouts to determine the optimal configuration to comply with the recommended social distancing between the jury, court staff, and the parties and attorneys while ensuring all involved are fully engaged in the hearing process. Children's Court will also coordinate with the Criminal Division on utilizing space at the downtown location where necessary to utilize larger space, as necessary and will closely assess requirements for cases requiring a 12 person jury. The Court intends to limit in-person appearances (hearings or trials) to courtroom 124, the largest Courtroom at JJC to ensure social distancing requirements.

Rather than focusing on the number of people allowed in a single courtroom, the focus will be on the ability to social distance and maintain at least six feet between individuals in all directions, utilizing Plexiglas in those instances where social distancing is impossible. The proceedings will be able to be viewed by the public and media, via video feed, from a separate room where social distancing will be observed. Seating will be marked off to ensure six feet per person.

In order to limit the number of people in a courtroom, the media may also be asked to view the proceedings from a separate room or share feeds so only one camera/media person is present in the courtroom.

The Children's Court Divisions will continue to allow self-represented litigants, Adoption, and Child Welfare litigants to file by email.

Scheduling and Addressing Trial Backlog

Non-jury trials

As noted above, the Children's Court Division will continue to maximize the use of remote hearings to the fullest extent possible.

In-person hearings will continue to be staggered and the courtroom cleared and common areas sanitized between hearings where possible. The Child's appearance in a delinquency proceeding will be waived where practical and witnesses will appear remotely where possible.

Children's Court continues to prioritize hearings to ensure time-limits are met and no Title IVE funding is impacted. Children's Court Special Masters have been utilized to for Mental Health dockets, AOT dockets, as well as Children's Court dockets. Special Masters continue to hear 10 day Custody hearings, permanency/review hearings, along with detention and warrant hearings. This allows the Children's Court Judges to focus time on substantive motions, plea and dispositions in the Delinquency, and Adjudications, Termination of Parental Rights and Adoptions.

Backlog trials

The Court and its justice partners have done a great deal of work to continue to make these cases the priority, especially as it relates to youth in custody during the State of Emergency. Many matters have continued to resolve without the need for trial and thus the Court believes the backlog of those cases will not be a long term challenge to overcome. Currently there are only 10 youth from Bernalillo County in the YSC and several of those youth have pending matters in the Criminal Division with Serious Youthful Offender (SYO) charges.

The Children's Court Division is utilizing a new Pretrial Scheduling Order for Motions for Termination of Parental Rights and has been utilizing a trailing docket system for Adjudications. Adjudications have remained a priority from the start of the COVID-19 changes.

The Children's Court Division has continued to add dockets as both system stakeholders and individual litigants have been able to access and utilize technology more proficiently. Additional trial dockets are being added to the Children's Court starting July 1, 2020 as well. The Children's Court will have a new District Court Judge that will assist and ensuring any back-log is addressed quickly.

While the Court has been continuing to hold hearings, we note that there are a significant number of cases where the parties have been unable to conduct all of their pretrial interviews, experts have been unavailable to consult, and other factors have delayed progress in the case beyond the control of the parties. With the addition of the new Judge, Children's Court is working to restructure calendaring and docketing across all systems, and implement procedures to ensure timely and completed trials in Child Welfare cases, and prioritize cases and trial settings accordingly. Children's Court will look to incorporate some processes, where appropriate, implemented by the Criminal Division in addressing any backlog.

Keeping the public, employees and judges safe

To the extent possible, those staff who are able to complete job duties at home will continue to telework. Additionally, vulnerable employees or those caring for vulnerable individuals will continue to telework. *See Considerations in Resuming Court Operations: A Pandemic Resource* from NCSC, available at <https://nationalcenterforstatecourts.app.box.com/s/n7w8zu89tbayfjr0qz6h7mn6nrg0x6qh/file/660117582540> (last visited May 19, 2020).

All staff and judges in the courthouse will be required to wear a mask as well as courthouse visitors, jurors, parties, and attorneys.

Cleaning supplies have been provided to court employees who are instructed to frequently sanitize commonly used areas.

Signage and markings will ensure proper social distancing.

Court staff and the public will be asked to self-screen prior to coming to the courthouse, will be instructed not to come to the courthouse if they are sick or caring for a sick individual, or if they live in or are travelling from a high-risk area.

Staff will be asked to take their temperature, and not report to work if their temperature is >100.4 or they are exhibiting other symptoms of COVID-19. The employee will be asked to self-report to supervisors, stay home, and call their physician or the NMDOH COVID-19 hotline.

Appearances of litigants in the vulnerable class of individuals will be excused where practical and vulnerable people given options for accessing technology where possible.

Staff and the public will be asked to limit travel within the courthouse where possible so that in the event of illness it will be easier to trace where an individual has travelled within the courthouse and which individuals they may have come into contact. *See Supreme Court of Virginia, Pandemic Continuity of Operations Planning: Reconstitution*, available at http://www.vacourts.gov/news/items/covid/2020_0511_recovery_guide.pdf (last visited May 19, 2020) (recommending cohort scheduling where groups of employees only work with employees within their group).

Challenges and needs

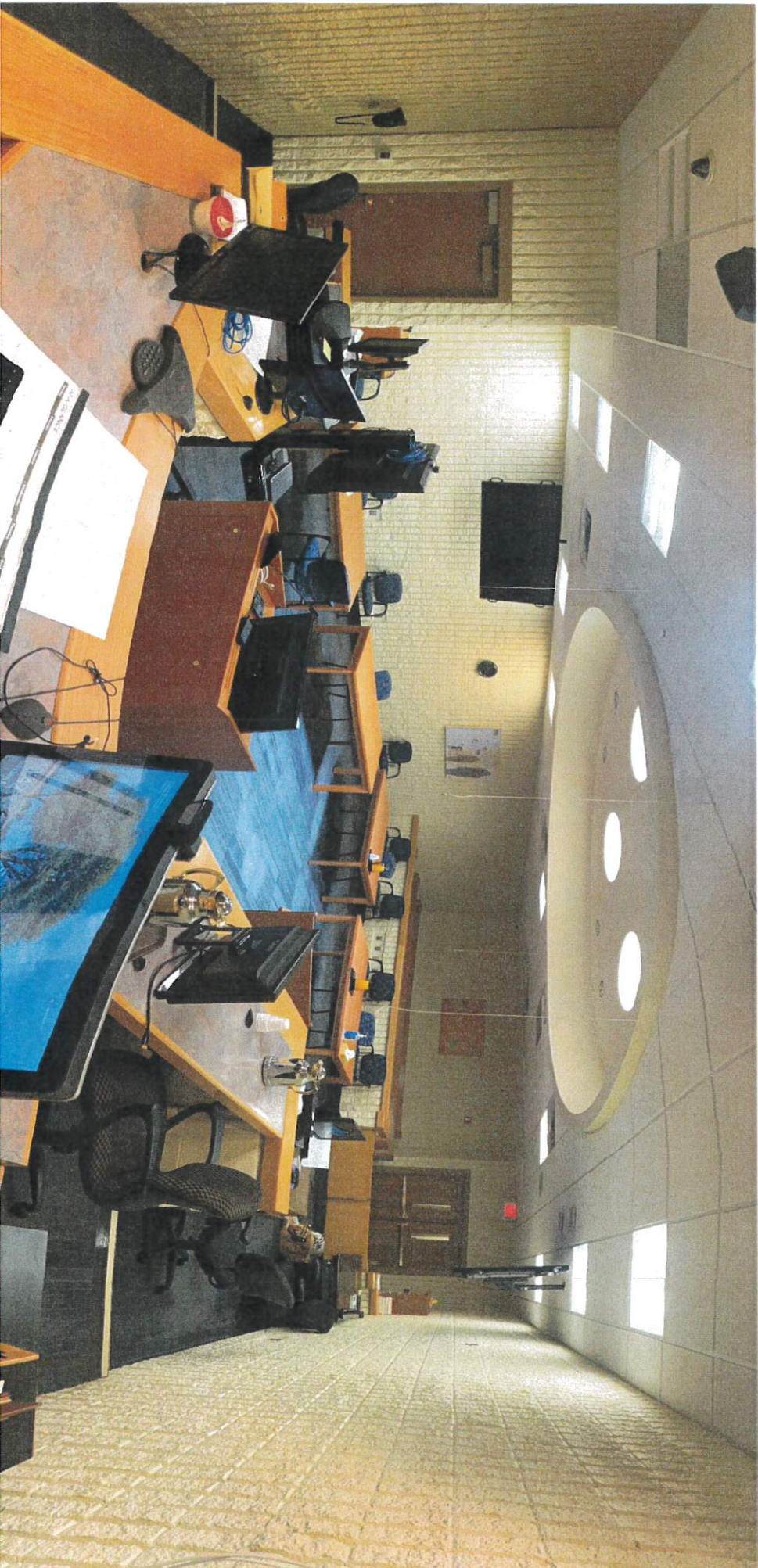
Resuming trial while COVID-19 restrictions remain in place will require additional resources in terms of staffing, security, equipment, and space.

To maintain social distancing while allowing for public access to the courts, it is anticipated that at least two courtrooms/large rooms will be needed for any jury trial taking place or multi-litigant bench trials. Under the Children's Court proposed plan, one courtroom will be used for in person trials, and when necessary the Court will coordinate with the Downtown facility for necessary space, pending completion of the new courtroom at Children's Court.

We anticipate the need for a significant amount of Plexiglas in the courtrooms. Plexiglas should be installed around the judge's bench, the witness stand, the jury box, the court monitor's station, and the clerk's station. Portable Plexiglas barriers should be widely available to section off areas as needed. Plexiglas barriers will need a slide-through option to allow the publication of evidence to the judge, witness, and jury.

We also anticipate the need for the above-mentioned communication devices as well as the need to upgrade or purchase additional sound equipment.

JJC Courtroom 124



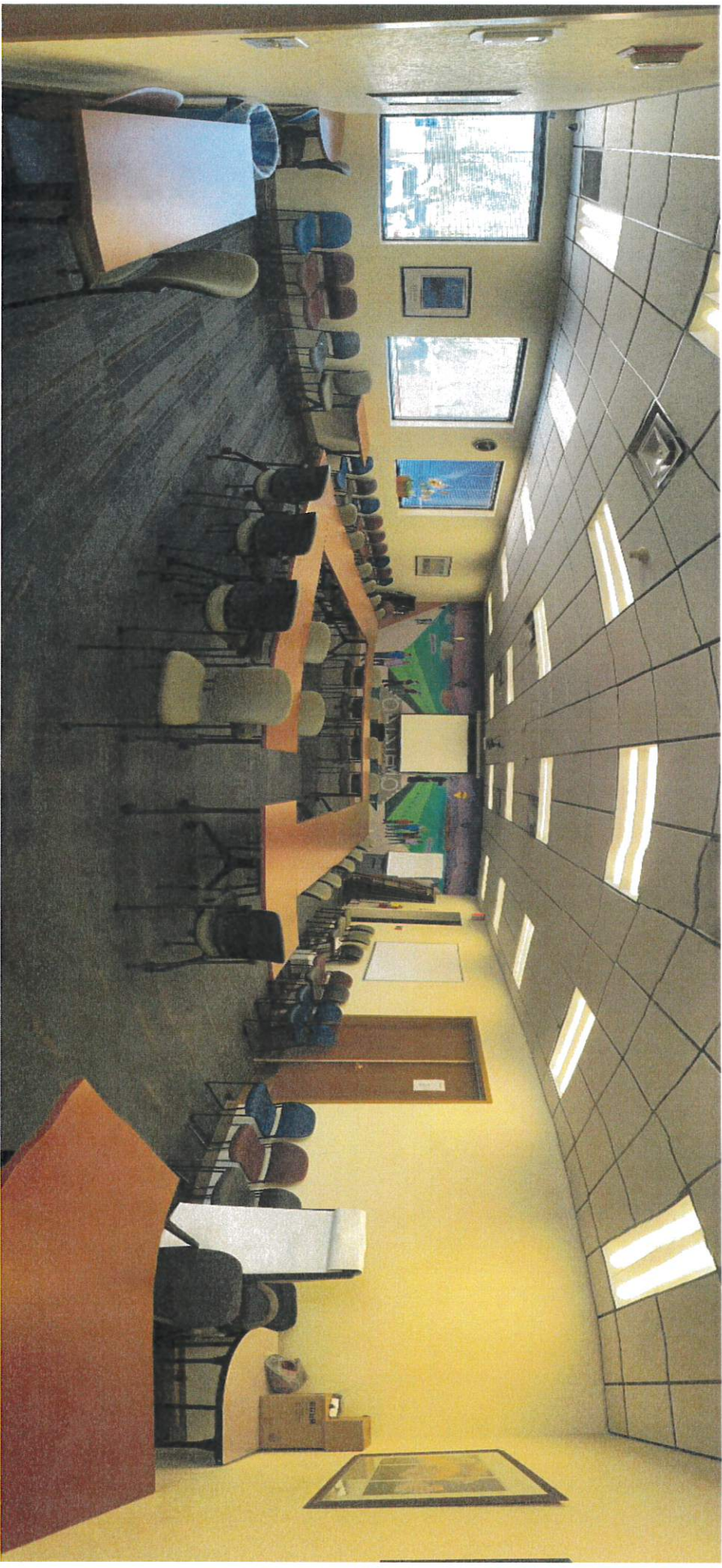
1232 Square Feet

EXHIBIT

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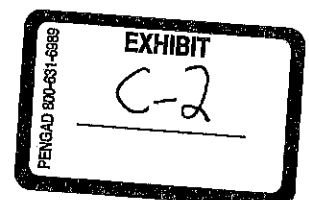
JJC Conference Room 133



960 Square Feet

Children's Court Judicial and Monitor Calendar and Rotation

DATE	Primary JUDGE	Secondary Judge	JJC Special Master**
06/22/2020	Judge Romero	Judge Ward	Martinez
Monitor	Phylicia Vega	Mary Lisa Balli	Mary Bozell
06/29/2020	Judge Ward	Judge Parnall	Schoeppner
Monitor	Mary Lisa Balli	Karla Rios	Margaret Moya
7/6/2020	Judge Parnall	Judge Romero	Begaye
Monitor	Karla Rios	Mary Bozell	Phylicia Vega
7/13/2020	Judge Romero	Judge Ward	Martinez
Monitor	Phylicia Vega	Mary Lisa Balli	Mary Bozell
7/20/2020	Judge Ward	Judge Parnall	Schoeppner
Monitor	Mary Lisa Balli	Karla Rios	Margaret Moya
7/27/2020	Judge Parnall	Judge Romero	Begaye
Monitor	Karla Rios	Mary Bozell	Phylicia Vega
8/3/2020	Judge Romero	Judge Ward	Martinez
Monitor	Phylicia Vega	Mary Lisa Balli	Mary Bozell
8/10/2020	Judge Ward	Judge Parnall	Schoeppner



Children's Court Judicial and Monitor Calendar and Rotation

Monitor	Mary Lisa Balli	Karla Rios	Margaret Moya
8/17/2020	Judge Parnall	Judge Romero	Begaye
Monitor	Karla Rios	Mary Bozell	Phylicia Vega
8/24/2020	Judge Romero	Judge Ward	Martinez
Monitor	Phylicia Vega	Mary Lisa Balli	Mary Bozell
8/31/2020	Judge Ward	Judge Parnall	Schoeppner
Monitor	Mary Lisa Balli	Karla Rios	Margaret Moya

** The Court has a separate calendar/assignment for another Special Master to conduct Mental Health proceedings each week. Those hearings are conducted at the downtown facility. The Special Masters also rotate calendars weekly.

JJC Rotation Schedule Through July

Name	Title	Rotation	1-Jun	8-Jun	15-Jun	22-Jun	29-Jun	6-Jul	13-Jul	20-Jul	27-Jul
Marie Ward	Judge	2 weeks on 1 week telework	Office	Office	Telework	Office	Office	Telework	Office	Office	Telework
John Romero	Judge	2 weeks on 1 week telework	Office	Telework	Office	Office	Telework	Office	Office	Telework	Office
William Parnall	Judge	2 weeks on 1 week telework	Telework	Office	Office	Telework	Office	Office	Telework	Office	Office
John Schoepner	Hearing Officer	1 week on 2 weeks telework	Telework	Office	Telework	Office	Telework	Telework	Office	Office	Telework
Ted Martinez	Hearing Officer	1 week on 2 weeks telework	Telework	Telework	Office	Telework	Telework	Telework	Office	Telework	Telework
Catherine Begaye	Hearing Officer	1 week on 2 weeks telework	Telework	Telework	Office	Telework	Telework	Office	Telework	Telework	Office
Amy Martino	TCAA	1 week on 2 weeks telework	Telework	Telework	Telework	Telework	TBD	TBD	TBD	TBD	TBD
Julie Parras	TCAA	1 week on 2 weeks telework	Telework	Telework	Telework	Telework	TBD	TBD	TBD	TBD	TBD
Daniel Sanchez Saenz	TCAA	1 week on 2 weeks telework	Telework	Telework	Telework	Telework	TBD	TBD	TBD	TBD	TBD
Margaret Moya	Monitor	2 weeks on 1 week telework	Telework	Office	Office	Telework	Office	Telework	Telework	Office	Telework
Phylidia Vega	Monitor	2 weeks on 1 week telework	Telework	Office	Office	Telework	Office	Office	Office	Office	Office
Karla Rios	Monitor	2 weeks on 1 week telework	Telework	Telework	Telework	Office	Telework	Office	Office	Office	Office
Mary Bozell	Monitor	2 weeks on 1 week telework	Telework	Telework	Telework	Office	Telework	Office	Office	Telework	Office
Mary Lisa Balli	Monitor	2 weeks on 1 week telework	Office	Office	Telework	Office	Office	Telework	Office	Office	Telework
Kleth Copsin	Bailiff	2 weeks on 1 week telework	Telework	Office	Office	Telework	Office	Office	Telework	Office	Office
Stephanie Gallegos	Bailiff	2 weeks on 1 week telework	TBD	TBD	TBD	Office Wed-Friday	Office Wed-Friday	Office Wed-Friday	Office Wed-Friday	Office Wed-Friday	Office Wed-Friday
Michael Baldwin	Bailiff	2 weeks on 1 week telework	TBD	TBD	TBD	Office Mon-Wed	Office Mon-Wed	Office Mon-Wed	Office Mon-Wed	Office Mon-Wed	Office Mon-Wed
Tanya Tijerina	Clinical Operations Manager	As needed employing mask wearing and social distancing	PSB	PSB	PSB	PSB	PSB	PSB	PSB	PSB	PSB
Ruby Martinez	AA	In office Tuesdays and Wednesdays	Telework	Telework	Telework	Telework	Telework	Tues/Wed	Tues/Wed	Tues/Wed	Tues/Wed
Jacqueline Jones	AA	1 week on 2 weeks telework	Telework	Telework	Office	Telework	Telework	Telework	Telework	Telework	Office
Argelia Barraza	AA	1 week on 2 weeks telework	Telework	Telework	Telework	Office	Telework	Telework	Office	Telework	Telework
Geralyn Rossi	AA	1 week on 2 weeks telework	Telework	Telework	Telework	Telework	Telework	Office	Telework	Telework	Office
Amanda Martinez	AA	1 week on 2 weeks telework	Office	Office	Office	Office	Office	Telework	Telework	Office	Telework
						Field Work and Telework most days.	Field Work and Telework most days.	Field Work and Telework most days.	Field Work and Telework most days.	Field Work and Telework most days.	Field Work and Telework most days.
			Field Work and Telework most days.	Field Work and Telework most days.	Field Work and Telework most days.	Field Work and Telework most days.	Field Work and Telework most days.	Field Work and Telework most days.	Field Work and Telework most days.	Field Work and Telework most days.	Field Work and Telework most days.
Mario Valdez	Probation Officer	As needed employing masks and social distancing and avoiding AA on Tuesdays and Wednesdays	coordinated with UA testing.	coordinated with UA testing.	coordinated with UA testing.	coordinated with Lindsey Jones	coordinated with Lindsey Jones	coordinated with Lindsey Jones	coordinated with Lindsey Jones	coordinated with Lindsey Jones	coordinated with Lindsey Jones
Lindsey Jones	Program Manager	1 week on 2 weeks telework	FMLA	FMLA	FMLA	Schedule	Schedule	Schedule	Schedule	Schedule	Schedule
Rosa Lopez Gaston	Court Interpreter Manager	As needed employing masks and social distancing	As Needed	As Needed	As Needed	As Needed	As Needed	As Needed	As Needed	As Needed	As Needed
Lisa O'Grady	Court Interpreter	As needed employing masks and social distancing	As Needed	As Needed	As Needed	As Needed	As Needed	As Needed	As Needed	As Needed	As Needed
Monica Rodriguez	Denurty CEO	2 weeks on 1 week telework	Telework	M-W-TH	M-W-TH	Office	Office	Telework	Office	Office	Telework

Pandemic Planning: Return of the Public to the Family Court Division

While the Family Court Division (hereinafter "FCD") has had tremendous success with telephonic hearings and Domestic Violence Division (hereinafter "DVD") victims have voiced gratitude for the ability to appear by telephone for safety reasons, we are planning for a gradual return of the public to the FCD¹. Our priority in this process is the protection of the health of employees, hearing officer staff and the Judges.

The Family Court Judges understand that the FCD should be the last division to schedule the return of in-person hearings. The Criminal Court, Children's Court and Civil Divisions each conduct jury trials, which the FCD does not. The Family Court supports the Pandemic plans of those divisions for its priorities. We have offered the use of our courtrooms and hearing rooms whenever possible to allow these plans to be successful.

FCD Judges and hearing officers (hereinafter, Family Court Hearing Officer, (hereinafter "FCHO")) have been having hearings from home or their personal offices via telephone since April. All 4 Judges and 8 FCHOs plan to conduct these hearings remotely as the primary vehicle to have hearings, unless there is a good cause for an in-person appearance. For trials and in-person proceedings (where there is good cause), the Family Court Division is prepared to hold such proceedings by July 15, 2020, consistent with Supreme Court Order No. 20-8500-025. Through proper screening, physical distancing, cleaning and sanitization, mask wearing and other precautions identified in the Second Judicial District Court's plan, the Family Court Division is equipped to move forward in a safe manner.

When resuming in-person operations, an important consideration for FCD is the size of the available courtrooms, hearing rooms and employee spacing that already exists.² Prior to COVID-19, Family Court ran approximately 100 hearings per day, all on the same floor. Adding this amount of litigants, attorneys and participants, with our employees already housed on the second floor³, challenges to current spacing needs increase. Also in FCD, TCAAs and Bailiff share one office.⁴ The spacing needs for FCD remain a critical issue for resuming in-person operations.⁵

In order to continue core operations during the pandemic, the FCD began implementing use of the Memorandum Order whenever possible to alleviate in-person hearings and allow staff to work from home. As has been earlier outlined in the pandemic policies approved by the New Mexico Supreme Court, emergency matters and cases with strict timelines, such as Petitions for

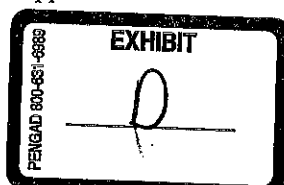
¹ See attached, schedule that shows July 2020 rotation.

² See attached pictures of courtrooms and hearing rooms.

³ Several divisions are housed on the 2nd floor— Four Judge Offices and staff, 8 hearing officers, Court Clinic, Court's monitors/reporters, Self-Help Division, DV Division Clerks, Family Court Clerks, and the Child Support Clerks/Staff. In total, the 2nd floor has approximately 99 employees housed on this floor. There is an estimated 350 total employees for the Second Judicial District, with different 3 buildings. The 2nd floor houses nearly 1/3 of the total employees.

⁴ See attached pictures of Judges offices

⁵ See attached pictures of spacing in Child Support Division and Domestic Violence Divisions for employees.



Kinship Guardianship have remained on the docket and an informal approach to policies and the Rules of Civil Procedure to allow litigants to email filings, exhibits, etc. has been implemented.

In keeping with the prior pandemic policies approved the Court and with the other Divisions of the Second Judicial District Court, the first step to any return to in-person hearings would be to prioritize needs and monitor safety. Therefore, FCD has the following needs to be in place prior to safely begin in-person hearings: encourage wide-spread testing for Judges and staff as we increase in-person contact⁶; plexiglass in courtrooms and hearing rooms; plexiglass or other material to corner-off spaces for staff areas; working, relevant and reliable technology for audio and visual for each courtroom and hearing room.⁷

In more detail, below details the needs, issues and plans for FCD.

A. Dockets:

1. Generally, all hearings by any judicial officer in FCD will be via telephone or video, unless good cause is determined to have an in-person proceeding beginning July 15, 2020. The Family Court had set a rotation in place through July 31 to limit onsite work and to attempt to avoid Judges and employees need for quarantine.⁸
2. Beginning August 1, 2020, FCD has broken up into a different rotation than before of four (4) teams, one Judge and two FCHO's. A rotation has been created to have Judges, Hearing Officers and coordinated staff on site working. The remaining Judges and FCHO's not on the rotation will continue to work and have telephonic hearings from home. *Any in-person proceeding pursuant to this rotation will be set for good cause only.*
3. Beginning August 31, 2020, the FCD will follow a schedule to incorporate in-person business so that each Judge is able to plan more effectively with good cause shown for the in-person proceedings.⁹
 - a. From August 31 through October 2, 2020, one Judge will have in-person hearings each day. FCHOs will continue to have hearings via telephone and video, and return to their own, regular dockets without coverage of the other divisions.
 - b. From October 4 through October 30, 2020, two Judges will have in-person hearings each day. FCHOs will continue to have hearings via telephone and video.
 - c. From November 2 through November 27, three Judges will have in-person hearings each day. FCHOs will continue to have hearings via telephone and video.

⁶ For some articles and information that we reviewed in asking for these as needs:

<https://www.nytimes.com/2020/05/11/opinion/coronavirus-reopen.html?referringSource=articleShare> and <https://www.fastcompany.com/90503568/this-twist-on-the-four-day-work-week-could-get-people-back-to-work-without-causing-new-outbreaks>

⁷ FCD has experienced wide-spread black outs, brown outs and general unreliability with the Century Link telephone numbers throughout this time.

⁸ See attached schedule that breaks down a rotation of the Judges and FCHOs to be available for in-person and emergencies.

⁹ See attached.

- d. Effective November 30, all four Judges will have in-person hearings each day. FCHOs will continue to have hearings via telephone and video.
4. We would encourage wide-spread testing for Judges and staff who are in contact with the public.
 5. The above schedule will be reviewed regularly, as it may be possible to increase in-person dockets at a faster pace. The contrary may also be true. We will remain fluid to meet the needs as matters progress through the summer and fall.
 6. During this time, only parties and attorneys will be allowed to attend in-person hearings. Witness will appear via telephone or video. Any observers or family support will be provided the telephone line for them to be able to listen, as if they were sitting in the audience of the courtrooms.
 7. Our Notice of Hearings will be modified to reflect that if parties are not wearing masks, their hearing will be reset or a default judgment could be entered.
 8. Each Office will maintain a Contact Tracing Log to be used for days in which there is public contact. The public will be required to fill out the log prior to beginning any hearing, or other business.¹⁰
 9. The assigned Judge and FCHO shall continue to review his/her assigned caseload and incoming motions and assignments with the priority of meeting the core functions of the Division. Our dockets are planned to meet these priorities currently and have hearings in person effective July 15, 2020 for good cause shown.
 10. In reviewing the matters assigned, every effort is made to determine if a matter can be adjudicated and managed by memorandum order. If so, the order is crafted, filed and mailed to the attorney of record or the self-represented litigants.
 11. When a Judge determines it is best to refer new matters to a FCHO, it is reviewed under the prior pandemic policy to determine if it is an emergency. Matters that are not deemed to be an emergency are not set for hearing on a priority basis. This takes into consideration that only one Judge is actually present in the FCD. As technology for telephonic hearings was provided to the FCD, FCHO's generally began conducting telephonic hearings from their homes. As the spread of the COVID-19 virus slowed, those FCHO's (3) assigned to the DVD have returned to a telephonic hearing docket working from their offices or hearing rooms.
 12. Any domestic matter a Judge assigned to a FCHO shall be set with that hearing officer who has a history with the litigants and who has issued prior recommendations, especially with regard to custody and timesharing of children. These matters will be set so that they remain from home and from their own offices to continue to limit in-person contact with employees and the public.¹¹
 13. The Judges continue to monitor all matters for adherence to the emergency nature of the allegations. New matters, such as the Extreme Risk Firearms Protection petitions will be assigned to all Family Court Judges, adjudicated only by Judges and added to the inclusion of the definition of emergency matters and handled daily by the Judge on the rotation schedule.

¹⁰ See attached sample form.

¹¹ See attached.

14. Judges and FCHO's will send cases to the Court Clinic on a limited basis and following the Clinic's pandemic plan for its staff. To assist in the backlog that COVID-19 created, we have limited the number of cases that may be referred per judicial officer to no more than 2 per month, with exceptions based on the facts and needs of the families served.

B. Video Trials:

1. Judges have conducted and will continue to conduct video trials via Google Meets. This has been relatively successful in resolving issues that are pending trial and in assisting the Court to assess the credibility of the parties during testimony.
2. This does require the use of a Courtroom at this time to ensure ascetics are appropriate.
3. The use of the Court's media carts have been necessary in most of the Courtrooms, as the technology in the courtrooms is outdated or nonfunctional. This can create a challenge for several issues—the number of media carts available to all 27 Judges, the use of the Court's Wi-Fi, and the bandwidth needed for these types of proceedings. We understand that Judge Ramirez has a Smart Courtroom that *may* be a working courtroom for video functions that we can share. We are working on trying to get this Courtroom up and running with IT and purchasing.
4. Procedures are in place with orders from each Judge that outline the requirements for the parties/counsel. Judges have screened for cases that would work best in this situation, to include the number of witnesses, expected exhibits and ability of counsel and parties to accomplish the technology end successfully.
5. We are concerned about the exclusive use of Google Meets, due to its limitations. We request that JID whitelist other platforms that resolves the issues. The issues we particularly seek to resolve are the ability to mute parties, the ability to unmute parties, as well as the ability to interface with current technology used to record hearings (FTR).

C. Telephonic Appearances:

1. All cases set in the FCD during this state of emergency shall be heard by telephonic (or video conference as outlined above where available) *until further notice*. Notices to the litigants include directions for telephone conference protocol, as well as instructions on submission of exhibits via email. These specialized notices of hearing shall continue to be used until further notice.
2. All hearings conducted by telephone shall conform to the 6-ft distancing rule for the protection of our court monitors, bailiffs, administrative staff and the Judges or FCHO's.
3. To this end, each FCHO and each Judge has been provided an individual conference call telephone number.
4. The only exception to this process is the Application to Terminate the Order of Protection. For this motion the protected party must appear inside the DVD with a photo identification.

D. Exhibits:

1. Judges are using the proposed text email system for identifying to the parties and counsel where to send exhibits at least 48 hours prior to any evidentiary hearing.
 - a. Child Support: albdcsissuedocs@nmcourts.gov
 - b. The DVD: albd-dvfilings@nmcourts.gov This specific email address will be used by any FCHO working in the DVD or on a specific domestic violence matter.
2. Limitations are in place to assist with the amount of documents that are sent to the email addresses by counsel and parties. These include, page limitations, general instructions for use of the email, and guidelines on how to mark and identify the exhibits are all contained in documents to the parties.

E. General matters:

1. All employees and judicial staff will wear face masks/covers when in common public areas and common work areas (not to include enclosed private office spaces) and shall follow the 6-ft distancing rule whenever possible.
2. Staff will be instructed and monitored to ensure general cleaning is completed.
3. Cleaning courtrooms and hearing rooms between hearings will also be completed.

F. The judicial staff rotation schedules:

1. The DVD will run four (4) dockets each day from the courthouse through July 31, 2020. To ensure that the DVD moves forward with any backlog created by the COVID-19 virus and pandemic policy, one additional FCHO will be assigned to the fourth docket during this time.
2. If any backlog continues, all Judges will participate in a rocket docket the week of July 6-10 for DV matters. Each Judge will have 6 hearings per day, holding more than 100 DV hearings that week via telephone.
3. Beginning August 1, 2020, the Court will resume 3 DV dockets, 3 Child Support Dockets, 2 Family Court general dockets, and the 4 Judge dockets, covering their own caseload.¹² This will be via telephone/video, with the exception of the in-person scheduled/calendared detailed below.
4. During all times contemplated herein, the Child Support and remaining FCHO's will continue to work from home, and conduct hearings from home, as has been their practice. These FCHO's rotate into the Courthouse as outlined in the schedule attached through July. Then they will rotate based on the teams created.
5. FCHO's will be limited to evening/weekend time for actual in-person work if it is not their "scheduled day in". The teams are designed to limit any potential spread if a positive test is detected.

G. The teams beginning August 1, 2020 are alphabetical as follows:

1. Chavez Baker, Benford and R. Klump
2. Lavelle, S. Klump and Lees
3. Levy, Rourke and Sais
4. Ramirez, Schneller and Traub

¹² This is subject to change based on the needs of the core functions for each division, as we all will work together to ensure any backlog is properly handled and finalized.

JULY

DATE	JUDGE	HEARING OFFICERS
July 1	Chavez Baker	Traub/Benford/Sais/Schneller
July 2	Lavelle	Traub/Benford/Sais/R. Klump
July 3	HOLIDAY	
July 6	Levy	Traub/Benford/Sais/S. Klump
July 7	Ramirez	Traub/Benford/Sais/Lees
July 8	Chavez Baker	Traub/Benford/Sais/Rourke
July 9	Lavelle	Traub/Benford/Sais/Schneller
July 10	Levy	Traub/Benford/Sais/R. Klump
July 13	Ramirez	Traub/Benford/Sais/S. Klump
July 14	Chavez Baker	Traub/Benford/Sais/Lees
July 15	Lavelle	Traub/Benford/Sais/Rourke
July 16	Levy	Traub/Benford/Sais/Schneller
July 17	Ramirez	Traub/Benford/Sais/R. Klump
July 20	Chavez Baker	Traub/Benford/Sais/S. Klump
July 21	Lavelle	Traub/Benford/Sais/Lees
July 22	Levy	Traub/Benford/Sais/Rourke
July 23	Ramirez	Traub/Benford/Sais/Schneller
July 24	Chavez Baker	Traub/Benford/Sais/R. Klump
July 27	Lavelle	Traub/Benford/Sais/S. Klump
July 28	Levy	Traub/Benford/Sais/Lees
July 29	Ramirez	Traub/Benford/Sais/Rourke
July 30	Chavez Baker	Traub/Benford/Sais/Schneller
July 31	Lavelle	Traub/Benford/Sais/R. Klump

Contact Tracing Log for Family Court

On May 15, 2020, Governor Michelle Lujan Grisham issued the document All Together New Mexico: COVID-19 Safe Practices for Individuals and Employers, which provides guidance for employers when resuming in-person contacts. One of those recommendations was the creation of a daily log of customers who come into an establishment. The New Mexico Judiciary requires that this information be collected for Court visitors and litigants.

Please provide the following information so that we may contact you should a case of COVID-19 have a connection the Family Court Division or the Second Judicial District Court. In the event of a confirmed case of COVID-19, the Family Court Division/Court will alert you by phone and/or email.

This information will be kept for 4 weeks.

Date	Your Name	Phone Number	Email Address

2020 AUGUST

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
						1
2	3	4 <u>Charles Baker</u>	5 _____	6	7 <u>Larale</u>	8
9	10	11 <u>Lenny</u>	12 _____	13	14 <u>Ramirez</u>	15
16	17	18 <u>Charles Baker</u>	19 _____	20	21 <u>Larale</u>	22
23	24	25 <u>Lenny</u>	26 _____	27	28 <u>Ramirez</u>	29
30	31	_____	_____	_____	_____	_____

PENGAD 800-631-9989

EXHIBIT

D-I

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SEPTEMBER 2020

SUN	MON	TUE	WED	THU	FRI	SAT
	31 1 <u>Chavez Baker</u>	2 <u></u>	3 <u></u>	4 <u>Lareue</u>	5 <u></u>	
6	7 <u>Lery</u>	8 <u></u>	9 <u></u>	10 <u>Ramirez</u>	11 <u></u>	12 <u></u>
13	14 <u>Chavez Baker</u>	15 <u></u>	16 <u>Lareue</u>	17 <u></u>	18 <u></u>	19 <u></u>
20	21 <u>Lery</u>	22 <u></u>	23 <u></u>	24 <u>Ramirez</u>	25 <u></u>	26 <u></u>
27	28 <u>Chavez Baker</u>	29 <u></u>	30 <u></u>			

Holidays and Observances: 7: Labor Day

OCTOBER 2020

SUN	MON	TUE	WED	THU	FRI	SAT
				1 <u>Lavelle</u>	2 <u>Lavelle</u>	3
4	5 <u>Lenny & Ramiriz</u>	6 <u>Lenny & Ramiriz</u>	7	8 <u>Chavez Baker & Lavelle</u>	9 <u>Chavez Baker & Lavelle</u>	10
11	12 <u>Lenny & Ramiriz</u>	13 <u>Lenny & Ramiriz</u>	14	15 <u>Chavez Baker & Lavelle</u>	16 <u>Chavez Baker & Lavelle</u>	17
18	19 <u>Lenny & Ramiriz</u>	20 <u>Lenny & Ramiriz</u>	21	22 <u>Chavez Baker & Lavelle</u>	23 <u>Chavez Baker & Lavelle</u>	24
25	26 <u>Lenny & Ramiriz</u>	27 <u>Lenny & Ramiriz</u>	28	29	30 <u>Chavez Baker & Lavelle</u>	31

2020 NOVEMBER

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1	2 Chavez Baker, Lavelle & Leng	3 Chavez Baker, Lavelle & Leng	4	5 Ramirez	6	7
8	9 Chavez Baker, Lavelle & Leng	10 Chavez Baker, Lavelle & Leng	11	12	13 Ramirez	14
15	16 Chavez Baker, Lavelle & Leng	17 Chavez Baker, Lavelle & Leng	18	19 Ramirez	20	21
22	23 Chavez Baker, Lavelle & Leng	24 Chavez Baker, Lavelle & Leng	25	26	27 Ramirez	28
29	30	DECEMBER 1 All 4 begin				



**STATE OF NEW MEXICO
SECOND JUDICIAL DISTRICT
COURT CLINIC**

To: Family Court Judges and Family Court Hearing Officers, Second District Family Court
CC: Second Judicial District Court Administration
From: Tim Reed, Court Clinic Director and Court Clinic Staff
Date: 5/22/20

**Court Clinic Comprehensive Plan of Current and Anticipated Services
During Coronavirus Restrictions**

The Court Clinic has been actively exploring creative methods to address existing cases and any new referrals for SOC's and Mediations during the current and any future Coronavirus restrictions. We have approximately 100 SOC referrals that were referred prior to the restrictions and we have been unable to complete any in-person interviews or observations in any of these cases thus far. Since the restrictions, we have received approximately 12 SOC referrals. Currently, we have 50 Mediation referrals that were referred prior to the restrictions and 7 referrals after the restrictions. These cases have not had any in-person contacts either. We have no new AC referrals and are in the process of completing approximately 7 existing referrals.

Our goal is to address as many referrals, including those families who may need more immediate attention, in a safe, ethical and timely manner while current restrictions exist and as they are lifted.

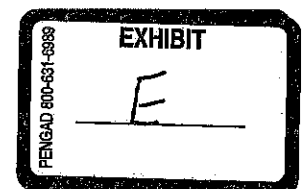
This document is divided into two Parts. Part I explains how we are conducting services given the current restrictions on in-person contacts. Part II explains our plan to resume in-person appointments.

Part I – Current Court Clinic Services during Coronavirus Restrictions

Mediations

We have conducted mediations by phone and are assessing how many mediation referrals we can handle through video and/or phone conferencing. Cases with significant issues, including DV may not be appropriate. We have a PDF survey inquiring about safety, private space and technology, which is assisting us in determining appropriate cases. A number of parties are requesting to wait until in-person appointments resume.

Scheduled On Calls (SOCs) – we have 2 Categories



- 1) SOCs where we have completed all in-person activities prior to the restrictions and are ready to testify:
 - a) We want to complete all of these Report Back Hearings – many have been completed.
 - b) We are requesting a new setting on cases where the original hearings were vacated.
- 2) SOCs (the 100+ new cases) that we have been unable to conduct in-person contacts:
 - a) We would like to address many of these cases with what we are calling the Status Conference/Case Consultation Model.

Status Conference/Case Consultation Model

Premises on which this model is based:

- 1) Ethical Considerations with in-person contact restrictions in place:
 - a) The Clinic is concerned that we cannot offer in-person contacts as part of our evaluations and we are concerned that those contacts may remain limited depending upon the guidelines set in place as restrictions are lifted. Clinic evaluative work is heavily dependent upon direct interviews and observation of individuals, especially interviews and observations of children.
 - b) Video/Phone contact with adults has limitations, which include the loss of non-verbals and possible influence/distraction of others.
 - c) Video/Phone contact with children is problematic because it is more susceptible to parental/others influence.
 - i. There is no way to guarantee a child is free from direct influence from anyone in the room, at the door, on another device, etc. Individual in-person interviews of children minimize this risk.
 - ii. The risk of misinterpretation of a child's statements is greater with video/phone contact due to our inability to fully develop our clinical impressions in the absence of nonverbal cues.
 - d) Until we are able to conduct in-person clinical interviews/observations, our ability to make clinical suggestions will be limited; however, we will be able to provide important information.
- 2) The Status Conference in lieu of a full Report Back Hearing:
 - a. Will provide an opportunity for informed consultation by the Clinic and joint planning with the parties and Court, thus addressing critical issues that otherwise may go unaddressed during these restrictions.
 - b. Will provide direction and set a course of action, thereby not leaving families in limbo.
 - c) Will provide an opportunity for increased accountability by parties in an effort to assist them in making informed decisions about their family.
 - f) Will reduce the possibility for further entrenchment of issues.

Clinic Activities in Preparation for Status Conference:

One of our most important clinical tasks has always been preparation before we ever see a family. This model builds on what we already have in place. The elements of our preparation:

- Review of our questionnaires, which are very extensive;
 - ❖ We are requesting parties complete and return all questionnaires, preferably electronically. We have developed PDF editable questionnaire forms.

- ❖ Without the questionnaires, the Clinic will be unable to proceed with this model.
- Review of Odyssey, including DM history and criminal history of parties and significant others;
- Request of and review of CYFD records – CYFD has successfully transitioned to sending their files electronically;
- Review of any documents submitted by the parties. We have developed a PDF form to request documents from parties;
- Drafting of testimony that includes the above information, which in many cases is extensive;
- If Clinic believes a case is appropriate for a Status Conference, the Clinic will request a Status Conference;
- If there is a Report Back Hearing already scheduled, we would request that setting be kept if we are ready;
- At this point, our biggest delay is getting questionnaires. Many parties did not submit their questionnaires once the restrictions were put in place.

The Status Conference

There are several options as to how the Status Conference can be conducted, to be determined on a case-by-case basis.

Status Conference Option A

- 1) Parties/Counsel present information first, updating the Court and Clinic as to:
 - Efforts to reach agreement
 - Agreements reached
 - Current Status – any changes as it relates to concerns/issues
 - Current requests
- 2) Clinician presents information gathered
- 3) Questions by parties/Court
- 4) Discussion of what this up-to-date information means relative to concerns/issues
- 5) Determination of service needs
 - a. The Clinician is ethically limited in making suggestions by the lack of the ability to conduct a full SOC; in-person contacts are key to developing our clinical impressions and suggestions, especially regarding children.
 - b. However, some service needs that are apparent given the information presented at the hearing can be determined.
- 6) Determination of next steps. Options:
 - a. Set Status Hearing(s)
 - i. Define a plan and who does what, when.
 - ii. Define if Clinic is to attend.
 - b. Determine Status of SOC. Options:
 - i. SOC is no longer necessary:
 1. Concerns/issues were resolved by agreement of the parties
 2. Concerns/issues are resolved by Status Conference
 3. Concerns/issues can be managed through future Status Hearing(s).
 - ii. SOC does need to proceed

1. Define parameters of SOC (may only need part of the SOC – subject to in-person contact restrictions/parameters).
2. If a full SOC is still needed, the Status Conference would be helpful to the Clinic to determine the level of urgency and priority for scheduling as restrictions on in-person contacts are lifted.
3. Define interim time sharing and service referrals to give parties direction while waiting.
4. Schedule another hearing following the completion of the SOC.

Status Conference Option B

- 1) Clinician presents first, providing information gathered
- 2) Parties/Counsel present information
- 3) Questions by parties/counsel/Court
- 4) Discussion of what current information means at this time relative to concerns/issues – as above
- 5) Determination of service needs – as above
- 6) Determination of next steps – as above

Factors to consider when determining Option A or B:

Option A

- 1) By having parties speak first, it encourages increased accountability by parties.
- 2) Parties have a chance to present the efforts they have made to resolve issues and how that impacts what they now consider relevant/important.
 - a. Many parties have already started working more cooperatively together as a result of COVID-19
- 3) May encourage less dependence on Court/Clinic and will encourage parties to make more efforts to resolve disputes.

Option B

- 1) Severity of issues may necessitate that the Clinician should be heard from first.
- 2) Parties may be entrenched/high conflict making it necessary for the Clinician to present to the Court in a neutral manner first

Benefits of Status Conference/Case Consultation Model

- 1) Can be useful to:
 - a. Implement a plan to address issues in the interim while in-person contacts at the Clinic remain restricted – now and in the future.
 - b. Triage to determine cases that still need a SOC, whether full or partial, and determine urgency/priority.
 - c. Potentially reduce both Clinic and Court caseloads.
 - d. Narrow issues that need to be addressed by the Court with/without a SOC.
- 2) Families have a chance to tell the Court that things may have shifted due to COVID-19 and how they are working together more effectively.

- 3) A significant factor in producing effective change is to identify and capitalize on the parties' willingness and motivation for change, so time is of the essence with many of these families. The current Coronavirus restrictions have created delayed response times, which can cause further conflict and greater stress on the children involved. The status conference will minimally help to address interim issues and therefore minimize any potential short or long-term effects for these families

Advisory Consultation (ACs)

Given the Clinic's current staffing (see below) and the current caseload of pending SOC's, we are requesting that the Clinic conduct fewer ACs. I am requesting that all potential AC referrals be staffed with me to determine if there is another way for the Clinic to address the Court's concerns.

Staffing

The current staffing of the Clinic is a major factor in determining what we can reasonably accomplish right now and as in-person contacts resume. This Status Conference/Case Consultation Model will assist the Clinic in addressing current/future cases given our staffing.

Current Clinic Staffing:

Position	Number	Services
Full time Clinician II	4	Conduct ROCs, SOC's and mediations Includes 1 Clinician who is transitioning from conducting primarily ACs
Half time Clinician II	1	Clinician is completing outstanding ACs and will be transitioned to conducting SOC's, ROCs and mediations
Clinician I	1	Conducts primarily mediations, with some ROCs and SOC's
Total Clinicians	5 ½	

The Clinic has 4 positions on hold currently, due to budgetary concerns.

3 Clinician II

1 Court Psychologist

Steps the Clinic is taking to implement changes to facilitate this model

1. We have converted our questionnaires to PDF editable format with the assistance of IT. This will allow us to send and receive questionnaires via email. Unfortunately, parties do not consistently put their email addresses on the CCRO. We are reaching out to parties to obtain their email addresses.
2. Via email, we are sending letters, questionnaires and a Survey about their access to video technology and private space in which to talk.

3. A letter to Attorneys is being drafted to explain the current status of Court Clinic services and encouraging them to work with families to resolve issues.
4. Additional Court Clinic documents are being converted to PDF.
5. We have requested webcams for video conferencing, but IT indicated that this is unlikely right now given the shortages of webcams available in the Court, community and on-line.
6. We are looking at our weekly staffing pattern as it relates to this model and further developments regarding in-person appointments.

New Referrals for Court Clinic Services

New Court Clinic Referrals through Regular On Call (ROC) Process:

Given that restrictions on in-person appointments at the Court Clinic will exist for an indeterminate period, a more limited version of the Status Conference/Case Consultation model can be utilized through the Regular On Call (ROC) process:

- 1) Judicial Officer identifies need for Clinician to attend an upcoming hearing to provide consultation – a scheduled ROC.
- 2) Judicial staff alerts Clinic staff – through email, hangouts, or phone – of the hearing date. The Clinic requests as much advance notice of hearing date due to fewer Clinicians being on site each day during Coronavirus restrictions. Advanced notice also allows for preparation time.
- 3) **Court prepares notice of hearing indicating that Court requests Clinic attendance at the hearing – this is important because it serves as our order to open the case. An order allows us to begin working on a case.**
- 4) Clinic Director assigns Clinician to attend hearing.
- 5) Clinician prepares for hearing by reviewing Odyssey (DM, DV, other court history), Clinic file (if prior referral) and any other available sources of information. If CYFD involvement is known, CYFD records will be requested and may be available by time of hearing. The preparation will be more limited because questionnaires are not obtained from the parties.
- 6) Clinician attends hearing – telephonically until allowed otherwise. Clinician can be present in office in building or calling in remotely.
- 7) Clinician provides consultation to the Court to assist in determining next steps
 - a. Full resolution of case.
 - b. Setting of review hearings
 - c. Request for a full Status Conference/Case Consultation followed by another hearing
 - d. CCRO for Mediation, SOC
 - e. Referrals for community services, etc.

Benefits of Joining the ROC and Status Conference/Case Consultation

- 1) Can be useful to:

- a. Implement a plan to address issues in the interim while in-person contacts at the Clinic remain restricted – now and in the future.
 - b. Triage to determine what cases need: a mediation, Settlement Facilitation, GAL, SOC, whether full or partial, and determine urgency/priority.
 - c. Potentially reduce both Clinic and Court caseloads.
 - d. Narrow issues that need to be addressed by the Court with/without a Status Conference/Case Consultation or SOC.
- 2) Families have a chance to tell the Court that things may have shifted due to COVID-19 and how they are working together more effectively.
 - 3) A significant factor in producing effective change is to identify and capitalize on the parties' willingness and motivation for change, so time is of the essence with many of these families. The current Coronavirus restrictions have created delayed response times, which can cause further conflict and greater stress on the children involved. The status conference will minimally help to address interim issues and therefore minimize any potential short or long-term effects for these families

New Referrals for a Status Conference/Case Consultation via the Court Clinic Referral Order (CCRO)

A Status Conference/Case Consultation can be ordered via the CCRO

- 1) Judicial Officer identifies need for Status Conference/Case Consultation and completes a CCRO.
- 2) Upon receipt of CCRO, Clinic staff and Judicial staff set hearing date.
- 3) Clinic Director assigns Clinician.
- 4) Clinician conducts Consultation and testifies at hearing.

Mediation Referrals

Given the caseload of existing SOC's, if the parties show some ability to work together and/or their issues are less serious, mediation may be a viable option.

Orders/Hearing Officer Reports Accompanying New CCROs

Where possible, please provide interim time sharing and service referrals (counseling, co-parenting, drug testing/treatment) to give parties direction while waiting for the Clinic to assess whether a Status Conference or a full SOC is needed. Hearing Officer Reports are particularly useful in helping the Clinic understand the concerns that need to be addressed.

CCROs

We are requesting that CCROs be fully completed and include parties' names, addresses, phone numbers and email addresses – all legibly.

Other Issues

The Court Clinic will file a Notice if one or both parties fail to tender questionnaires or other requested documents. The Status Conference/Case Consultation relies heavily on receiving questionnaires. We will make a number of attempts prior to issuing the notice.

The Court Clinic is not collecting SOC fees until and unless a full SOC can be conducted.

If after completing our review, the Court Clinic has concerns about substance abuse, we will submit drug-testing orders for the Judge's signature prior to the hearing.

Part II follows

Part II – Court Clinic Services as Restrictions Ease and In-person Appointments are Allowed

The Court Clinic proposes the following plan in anticipation of gradually resuming Clinic in-person appointments in an environment where the risk of the coronavirus remains present. The Clinic will resume in-person appointments only after receiving clearance from the Second District Court leadership and in consultation with Family Court.

Resumption of In-person Appointments at the Court Clinic

Our work at the Court Clinic involves extensive in-person interviewing and observing of adults and children. Children are involved in individual interviews and observations which typically involve 2-8 individuals over a 1-3 ½ hour timeframe. As one of the few divisions in the Second District that has children come into the Courthouse, we are particularly sensitive to establishing tight safety protocols.

Prior to coronavirus restrictions, the Clinic typically had between one and five families in the Clinic each day for services including Scheduled On Calls (SOCs), Mediations and Advisory Consultations – between 4 to 20 individuals on any given day.

Without in-person contact, the Clinic's ability to gather complete clinical information and present a full clinical assessment is limited. These limitations compromise the Clinic's ability to formulate complete clinical impressions and recommendations.

The Clinic anticipates the following approach to resuming in-person appointments in the initial stages of easing of restrictions:

- Scheduled On Calls
 - ❖ The Clinic will begin with a very conservative approach to resuming in-person appointments for several reasons:
 - Staff safety – individuals coming to the Clinic are typically in the Clinic for a minimum of 1 hour and up to 5 hours over the course of a day. These contact timeframes exceed what is typical for other in-person contact timeframes currently present in the community – i.e. grocery stores, retail, medical settings,

etc. Given this length of exposure between staff and the public, safety is paramount;

- Public safety – limiting the number of contacts families will encounter while present for Clinic services;
- Our protocols need to inspire public confidence that the safety of the public is being addressed. This is especially important for our families, most of which experience anxiety about coming to the Court Clinic under the best of circumstances. The families asked to come to the Clinic will have concerns about exposure for their children. Our protocols need to be strong to encourage families to come in for necessary in-person appointments.

➤ Scheduled On Calls In-person Appointments Implementation

- ❖ We will begin with one family the first week and we anticipate increasing the number of families over time on the rotation laid out below. While some level of restriction remains, we anticipate a maximum of four families per week, with one family each day on Mondays, Tuesdays, Thursdays and Fridays. This rolling implementation will allow us to see how this plan works before we have more individuals present in the Clinic on a regular basis:
 - Whether anyone – staff or public – contracts COVID-19;
 - Address contract tracing as necessary;
 - Problem-solve any issues that we did not anticipate.
- ❖ Continuous assessment of this plan is necessary for safety.
- ❖ As more information about COVID-19 emerges this plan could accelerate or decelerate.
- ❖ As changes in vaccines, treatments, etc. of COVID-19 develop this plan could accelerate or decelerate.
- ❖ Ongoing consultation with Court Administration and Family Court Judiciary will be implemented formally through a reporting process – *in development*.

➤ Implementation Rotation

- ❖ Week 1
 - One family this week on one day
- ❖ Weeks 2 and 3
 - No families these weeks to allow for the 14-day period for symptom discovery
- ❖ Week 4
 - One family this week on one day
- ❖ Weeks 5 and 6
 - No families these weeks to allow for the 14-day period for symptom discovery
- ❖ Week 7
 - Two families on separate days
- ❖ Weeks 8 and 9
 - No families these weeks to allow for the 14-day period for symptom discovery
- ❖ Week 10
 - Two families on separate days
- ❖ Weeks 11 and 12
 - No families these weeks to allow for the 14-day period for symptom discovery
- ❖ Week 13
 - 3 families on separate days

- ❖ Weeks 14 and 15
 - No families these weeks to allow for the 14-day period for symptom discovery
- ❖ Week 16
 - 3 families on separate days
- ❖ Weeks 17 and 18
 - No families these weeks to allow for the 14-day period for symptom discovery
- ❖ Week 19
 - 4 families on separate days
- ❖ Weeks 20 and 21
 - No families these weeks to allow for the 14-day period for symptom discovery
- ❖ Weeks 20 and beyond
 - 4 families on separate days
 - Assessment to see if 14-day period for symptom discovery is still necessary

➤ **Scheduled On Call Appointments Scheduling**

- ❖ Appointments have typically been staggered and will continue as such to reduce the number of individuals and the amount of time they spend in the courthouse for Clinic services.

Morning Appointments:

- ❖ Adult individual interviews will take place in the morning, staggered. Only one adult member of the family will be present in the Clinic at a time in the morning. All others will be waiting for their scheduled appointments outside Court, in vehicles or elsewhere in the building. A typical morning may look like:
 - Interview of parent/party beginning at 9 am;
 - After that parent/party leaves, interview of that parent's significant other (who has been waiting elsewhere);
 - After significant other leaves, interview of other parent/party at 10:30 am (who has been waiting elsewhere);
 - After that parent/party leaves, interview of that parent's significant other (who has been waiting elsewhere);
 - Depending upon issues identified by the Court Clinic Referral Order and our preparation for a SOC, we may not need in-person interviews of significant others.

Afternoon Appointments:

- ❖ Individual child interviews and child/adult observations will take place in the afternoon. These activities are typically the most important aspect of our clinical work.
 - One child in Clinic at a time with only one adult (for supervision purposes);
 - If there is more than one child in a case, the other child(ren) will be waiting elsewhere if parent has another responsible adult, or if necessary, waiting with the parent in the Clinic waiting room, observing social distancing.
 - The other parent arrives alone at the time of observations. Observations will only begin after all child interviews have been conducted;

- In cases where there are multiple children and we want individual child/adult observations we will need 2 adults present (for supervision purposes) in the Clinic waiting room, observing social distancing
 - Depending upon issues identified by the Court Clinic Referral Order and our preparation for a SOC, we may not need in-person observations of significant others. If they are invited, they will wait elsewhere until needed.
 - Other children in both parties' homes will likely not be included in the SOC process unless specifically identified as needing to participate. If they are invited, they will wait elsewhere until needed.
 - All other individuals, including adult children of the parties and relatives will not be included in the SOC process unless specifically identified as needing to participate. If they are invited, they will wait elsewhere until needed.
 - Children/adults requiring an advocate or other support person will be accommodated taking into account the number of individuals in the Clinic and social distancing guidelines.
 - ❖ If only child interviews and/or observations are needed, those appointments can be scheduled in either the morning or the afternoon.
 - ❖ Only those invited by the Clinic will be allowed in the Clinic waiting rooms at their appointed time – all others will be asked to wait somewhere else.
 - ❖ Individuals not invited/needed for a Court Clinic process will not be allowed in the Clinic to minimize traffic.
 - ❖ Larger families may require a modified scheduling.
 - ❖ Families will be provided with written material prior to their appointments regarding safety protocols, including the need to maintain social distancing while in the Courthouse and the Clinic.
 - ❖ The Clinic has requested that all documents be tendered electronically by parties as much as possible to minimize handling of external items.
- Mediations
- ❖ One family on Wednesday afternoons for in-person mediations.
 - Mediations are typically between 2 parties, with an occasional referral for 4 parties. The Clinic has conference rooms to accommodate the larger number.
 - ❖ Phone or video mediations can be conducted all other days as staff are available.
- Families who "Refuse" to Come to the Clinic as Court Ordered
- ❖ Any family member who meets the criteria as a member of a vulnerable population will not be viewed as refusing and will not be required to come to the Clinic. Depending upon their role in the family, this restriction may affect what clinical information can be gathered, thus limiting the assessment and suggestions.
 - ❖ It is anticipated that there will be some families who refuse to come for in-person appointments.
 - ❖ The Clinic will explore the reasons and ensure that individuals understand the safety protocols that will be in place.
 - ❖ The Clinic will explain the necessity of in-person appointments and the limitations on the clinical process if those appointments do not take place.

- ❖ The Clinic will inform the Court of any individual in this category – via a filed Notice – *in development.*

Safety Protocols Necessary to Resume in-person Appointments

1. Courthouse
 - ❖ The Clinic assumes that safety protocols will be established for the public entering the Courthouse including temperature and other screening and mandatory facemasks and/or gloves.
2. Clinic Waiting Areas
 - ❖ Spacing of and removal of excess chairs to provide social distance – *has already occurred as of 5/18/20.*
 - ❖ Current chairs are fabric. We have requested one or more of the following, as available:
 - Cleanable wooden or plastic chairs – *as of 5/18/20, Purchasing indicated that plastic chairs could be provided.*
 - Cleanable covers for the chairs.
 - A method of sanitizing the fabric without leaving the chair wet for the next day.
 - ❖ The Clinic has 2 distinct sections in our waiting area
 - Initially the plan will be to have no more than one adult and the referred child(ren) present in the Clinic.
 - As restrictions ease it will be possible to have a limited number of individuals from both sides of the family present (afternoons typically). Each side of the family can be in different sections, maintaining social distancing.
 - ❖ Clinic waiting areas will be cleaned each day after use – at Noon and at the end of the day after families leave.
 - ❖ Signage will be visible reminding individuals of safety protocols in the Court and specific protocols in the Clinic
 - *The Clinic needs this signage*
 - ❖ Signage on the floor in the Clinic reception area reminding individuals of social distancing – *already in place as of 5/18/20*
3. Other Clinic Areas Utilized for SOC's – conference rooms and observation rooms
 - ❖ Conference rooms will be utilized for individual interviews of adults and children
 - ❖ The Clinic has typically utilized different items to conduct child/adult observations
 - All items that cannot be cleaned have been removed
 - All items utilized will be cleaned after use
 - New structured activities are being explored, including one-use/disposable items
 - ❖ The Clinic has typically utilized pen and paper assessment tools with children and adults
 - Pen and paper assessments will not be utilized unless they can be digitized/on-line, taking into account copyright protections, etc.
 - The Clinic is still exploring these options.
 - If computers are utilized, they will be cleaned after each use.

- ❖ All other clinic areas utilized during the SOC process will be cleaned each day after use.
 - ❖ Signage on the floor within the Clinic reminding individuals of social distancing – *this is needed.*
4. Necessary Protective Gear for Staff
 - ❖ Plexiglass barriers for front desk in Clinic – *Purchasing indicated these will be installed*
 - ❖ Portable plexiglass screens to move around on tables as needed for interviews/observations – *Purchasing indicated these will be ordered – 3 requested*
 - ❖ Plexiglass face shields *Uncertain if needed?*
 - ❖ Masks – *staff have their own*
 - ❖ Gloves – *uncertain if these will be required – can Court provide if required?*
 - ❖ Sanitizing wipes and other cleaning supplies – *will need these replenished by Court as necessary*
 5. Protective Gear for Public
 - ❖ Mandatory Masks – *will Court provide?*
 - ❖ Gloves – *uncertain if these will be mandatory and if Court will provide?*
 - ❖ Sanitizing stations in Clinic – *need to be kept full*
 6. Families will be using the restroom outside the Clinic
 - ❖ *The restroom needs to be cleaned each day at Noon and every evening.*
 7. Staff Protocols for Cleaning
 - ❖ Another staff person will be responsible for cleaning all areas in the Clinic as the SOC is in progress and at its conclusion
 8. Staffing of the Clinic
 - ❖ The current staffing pattern can continue with some modification
 - ❖ Minimum of 2 staff in Clinic each day
 - Clinical staff may need to change assigned day to conduct in-person contacts
 - If restrictions continue to ease, the Clinic will assess whether additional staff can be present each day
 - Staff not present will continue work at home with remote access
 9. Communication with the public regarding Court Clinic processes and protocols during this time when the risk of the coronavirus remains present
 - ❖ The Clinic will continue to utilize written letters sent by mail and email – letters in draft stage currently. Letters will go to parents/parties and attorneys.
 - ❖ Parents/parties will be asked to call to confirm their appointments and confirm that they are not symptomatic.
 - ❖ Parents/parties will be asked to call the Clinic following their appointment if they have any symptoms or have contracted COVID-19 so that we can initiate contact tracing.
 - ❖ The Clinic will be requesting the assistance of IT to have documents available on the Clinic portion of the Second District Website.
 - ❖ The Clinic will post cleaning processes and schedules specific to the Clinic.

- ❖ The Clinic will post signage that is consistent with other signage in the Courthouse – *the same signs found elsewhere are requested in the Clinic.*

10. Additional Safety Protocols

- ❖ Prior to Coronavirus restrictions, The Clinic routinely had many individuals drop-in to ask questions, to get directions to other areas of the Court or to drop off documents.
- ❖ The Clinic is developing a form for such individuals to complete that would be useful for contact tracing in the instance of a positive case of Coronavirus emanating out of the Clinic (staff or public).

Determination of what Scheduled On Call Cases will be first to have in-person appointments

The Clinic will continue to utilize the Status Conference/Case Consultation model developed during Coronavirus restrictions to address the inability of conducting in-person appointments. The model has proven useful in addressing case issues without in-person appointments and in determining the level of urgency in cases and those cases needing in-person appointments first.

1) Urgent SOC's

- ❖ SOC's ordered before 3/13/20 and the Court and/or Clinic determined that a Status Conference/Case Consultation was not appropriate due to the severity of issues.
- ❖ SOC's where the Clinic conducted the Status Conference/Case Consultation and it was determined at the hearing that adult and/or child interviews/observations were necessary and a priority.
- ❖ SOC's that have been ordered after 3/13/20 that are deemed urgent.

2) Less Urgent SOC's

- ❖ SOC's where the Clinic conducted the Status Conference/Case Consultation and it was determined at the hearing that adult and/or child interviews/observations were necessary but not urgent – no immediate safety or risk factors.
- ❖ Cases where in-person child interviews/observations are necessary for the Clinic to provide information to the Court but are less urgent – no immediate safety or risk factors.

3) All other SOC's

- ❖ Those ordered after 3/13/20 will be assessed for a Status Conference/Case Consultation and/or placed in the rotation to have a SOC conducted.

4) The development and determination of the priority/urgency list is ongoing in cooperation with the Family Court Judiciary.

As Restrictions Ease

This plan will be continuously evaluated in consultation with the Court Administration and the Family Court Judiciary to determine its effectiveness and need for changes.

As restrictions ease, protocols will be adapted to take into account changes.



STATE OF NEW MEXICO
SECOND JUDICIAL DISTRICT
COURT CLINIC

To: Family Court Judges
CC: Second Judicial District Court Administration, ERT
From: Tim Reed, Court Clinic Director and Court Clinic Staff
Date: 6/19/20

Court Clinic Revisions of Original Plan for Resumption of In-Person Appointments

This plan provides protocols and procedures to bring families safely back into the Court Clinic for in-person appointments, providing the Court Clinic with the ability once again to complete a full clinical assessment and provide clinical suggestions to the Court and parties. Individuals coming to the Court Clinic are typically in the Court Clinic for a minimum of 1 hour and up to 5 hours over the course of a day. These contact timeframes exceed what is typical for other in-person contact timeframes currently present in the community – i.e. grocery stores, retail, medical settings, etc. Given this length of exposure between staff and the public, safety is paramount. This plan is the result of ongoing consultation with the Second District Family Court Judiciary and Court Administration. Weekly consultation with the Family Court Judiciary has been ongoing during the Coronavirus pandemic and will continue.

This plan will begin once the following occur:

- Plexiglas identified below is installed;
- Family Court Judiciary has approved startup;
- Second District Court Administration has approved startup;
- Families are given at least 2 weeks' notice by mail and/or email to make arrangements to attend their appointments;
- The anticipated start date is August 1, 2020.

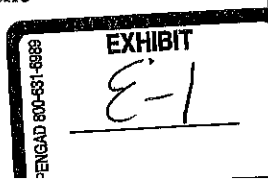
This plan will be reviewed on an ongoing basis in consultation with the Family Court Judiciary and Court Administration in order to determine the need for modifications. In the event of a positive test or outbreak, the Court Clinic Director will immediately consult with the Family Court Judiciary and Court Administration in order to determine the next course of action.

This document outlines only the revisions of the first submitted Court Clinic Plan and unless specifically noted, there are no other changes to the original submitted plan.

Court Clinic Clinical Teams (Pods)

- Given the current staffing level, Clinicians (5 full time, 1 part time Clinician) will be divided into 3 teams of 2 Clinicians each. Team schedule to begin no later than August 17, 2020.
- The Court Clinic will begin with 2 teams per week providing in-person appointments on 2 non-consecutive days per week for the following reasons:
 - ❖ Recent positive COVID-19 employee tests at the Second District, with some of the individuals being asymptomatic

Court Clinic Revisions of Original Plan for Resumption of In-Person Appointments



- ❖ Recent positive COVID-19 employee tests at the Second District, with some of the individuals being asymptomatic
- ❖ Court Administration has closed the courthouse for up to 2 days for extensive cleaning following positive COVID-19 testing by an employee.
- ❖ Spacing between appointments will provide for more extensive cleaning. Bernalillo County staff will continue daily cleaning (including the bathroom right outside the Court Clinic) and in addition, Court Clinic staff will clean whenever families have been present in the Court Clinic for in-person appointments..
- After 4 weeks, if there is low or no incidence of infection, all 3 teams will conduct in-person appointments one day per week. This step will be determined in consultation with the Family Court Judiciary.
- After it has been determined that there is reduced risk to mix teams, additional in-person services will be offered (see page 4, Increasing in-person appointments at the Court Clinic).
- The composition of the Clinician teams will not change to prevent mixing and ensure staff safety
 - ❖ Decreases chance of spread among Court Clinic and Court staff should positive test occur
 - ❖ Allows for quarantine of a smaller number of staff in the event of a positive test
 - ❖ Facilitates contact tracing (see Contact Tracing Log Page 5 of this document)
 - ❖ Complies with protocols of other programs involving children (State and CDC guidelines)*
- Two (2) Clinicians always present when families are in the Court Clinic
 - ❖ One Clinician conducting service
 - ❖ Other Clinician cleaning and monitoring for safety and handling ongoing daily tasks
 - ❖ No court hearings scheduled for Clinicians on days they are on site

Court Clinic Director and 2 Administrative Assistants

- Working on site the other 2 days each week when there are no in-person appointments
- Teleworking when not on site
- Are available to be present on other days in case of quarantine of a team
- Director will continue supervision/consultation by phone, video and email
- Director will continue ongoing consultation with Family Court Judiciary by all methods
- Remote weekly Staff meeting will continue on Wednesdays
- Court Clinic Director will continue attendance at monthly Family Court Judges Meeting

Teleworking

Court Clinic staff will continue teleworking on days not on site

- Calling in for court hearings until further notice – this prevents mixing of teams
- Conducting mediations and adult interviews by phone as appropriate
- Preparing for appointments
- Preparing for testimony
- Document production
- Answering phone calls and emails
- Clinicians available to call in for Remote Regular On Calls (Remote ROC) as needed

Families coming to the Court Clinic

- Letters to families and attorneys will include information regarding safety protocols and procedures the Second Judicial District Court and the Court Clinic are utilizing
- Staggering of appointments as detailed in original plan will occur
- Letters will detail who is to come to appointments and when

- ❖ Because of its more isolated physical location, the Court Clinic is anticipating being more successful in reducing the number of individuals in the Court Clinic at any given time
- Families will receive at least 2 weeks' notice of appointments
- Families will be asked to document their visit to the Court Clinic on a Contact Tracing Log (Page 5 of this document)

Weekly Court Clinic Staffing Grid – 5.5 Clinicians, 2 Administrative Assistants, 1 Director

Monday	Tuesday	Wednesday	Thursday	Friday
Director Administrative Assistant(s)	2 Clinicians	2 Administrative Assistants Director Weekly Clinic Staff Meeting conducted remotely	2 Clinicians	2 Clinicians

Remote ROC Assignment	1 Clinician	1 Clinician	1 Clinician	1 Clinician	1 Clinician
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Testing of Court Clinic Staff – not addressed in original plan

- Recently a number of Second Judicial District employees tested positive for COVID-19
- Some of those individuals were asymptomatic
- The second floor of the courthouse is responsible for a substantial portion of the public traffic in the courthouse
- The second floor houses a significant number of employees
- Because of its physical location, the Court Clinic does not get any pass through traffic, but families will be passing through other areas/elevators on the second floor before arriving at the Court Clinic
- The following is recommended:
 - ❖ Regular testing of Court Clinic staff should be implemented to begin 3 weeks after the commencement of in-person appointments at the Court Clinic
 - ❖ Testing should occur every 3 weeks thereafter
 - ❖ Antibody testing should be implemented for all Court employees
- In the event of a positive test or outbreak, the Court Clinic Director will immediately consult with the Family Court Judiciary and Court Administration in order to determine the next course of action. The Court Clinic will follow all directives of the Family Court Judiciary and Court Administration.

Interpreters – not addressed in original plan

In consultation with Rosa Lopez-Gaston, Court Interpreter Supervisor:

- Language interpreters can be on-site or by phone
- Sign language interpreters will need to be on-site

Court Clinic Revisions of Original Plan for Resumption of In-Person Appointments

- Safety protocols followed, including maintaining social distancing and use of Plexiglas barriers
- Use of assistive technology and sanitation procedures for such

Plexiglas Barriers – more specificity than in original plan

Front Counter Area

Plexiglas will be added to the existing barriers increasing the height of protection

Conference Rooms

Large tables already provide for social distancing

2-3 portable tabletop partitions will provide added safety

Observation Booth

2 options

Portable standing barrier at least 6 feet high, no more than 18 inches wide

Portable tabletop that has 4 ½ feet span and 3 to 3 ½ feet tall

Purchasing indicates that Plexiglas is anticipated to be available July 31, 2020.

Increasing in-person appointments at the Court Clinic

- Increasing in-person appointments to 4 or 5 days per week will require mixing of teams (pods)
- Mixing of teams potentially increases the risk of spread of infection and complicates contact tracing
- Increasing in-person appointments will be determined in consultation with the Family Court Judiciary and Court Administration.
- Factors to consider::
 - ❖ Low or no incidence of staff infection after implementation of the Court Clinic plan
 - ❖ Low or no incidence of staff infection after implementation of plans of other divisions and specifically Family Court in-person hearings
 - ❖ Statewide and county incidence rate changes – concerns about an “echo” pandemic in Fall 2020
 - ❖ Results of employee testing, including antibody testing
 - ❖ Better understanding of immunity
 - ❖ Existence of a vaccine
 - ❖ CDC, NMDOH and other medical organizations guidance

* Resources Consulted

NM Supreme Court Orders

ERT Documentation

All Together New Mexico: COVID Safe Practices for Individuals and Employers

<https://indd.adobe.com/view/3f732e94-0164-424d-9ac6-a0ace27e70c8>

<https://cv.nmhealth.org/covid-safe-practices/summer-youth-programs/>

<https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/index.html>

<https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/summer-camps.html>



STATE OF NEW MEXICO
SECOND JUDICIAL DISTRICT
COURT CLINIC

DAILY CONTACT TRACING LOG FOR COURT CLINIC VISITORS

On May 15, 2020, Governor Michelle Lujan Grisham issued the document All Together New Mexico: COVID-19 Safe Practices for Individuals and Employers, which provides guidance for employers when resuming in-person contacts. One of the recommendations was the creation of a daily log of customers who come into an establishment. The New Mexico Judiciary requires that this information be collected for Court visitors.

Please provide the following information so that we may contact you should a case of COVID-19 have a connection to the Court Clinic or the Second District Court. In the event of a confirmed case of COVID-19, the Court/Court Clinic will alert you by phone and/or email.

Contact tracing information will be maintained a minimum of 4 weeks

Month: Jan Feb Mar April May June July Aug Sept Oct Nov Dec
Day: 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

Your Name (Please write clearly)	Scheduled Appointment Yes/No	Phone Number	Email Address

Court Clinic Staff Present



STATE OF NEW MEXICO
SECOND JUDICIAL DISTRICT
Center for Self-Help and Dispute Resolution

The Center for Self-Help and Dispute Resolution Proposed Plan to Resume Operations for each program is as follows:

Elder and Disability Initiative (EDI):

Continue to conduct EDI workshops and home visits telephonically until limitations on gatherings are lifted and it is deemed safe for staff to conduct them in person. Staff will meet to discuss program issues/needs and will come into court periodically on an "as needed" basis.

Foreclosure Settlement Program (FSP):

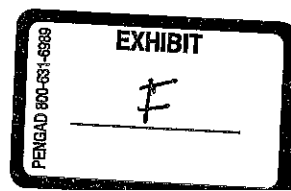
Modifications of program will be implemented to meet growing foreclosure needs with reduced staff. If program modifications allow, resume telephonic workshops until limitations on gatherings are lifted and it is deemed safe for staff to conduct them in person. Continue remote status calls. Staff will come into court periodically on an "as needed" basis.

Center for Self-Help and Dispute Resolution:

The Self-Help Center is currently remote. There are 4 different self-help phone numbers for telephonic assistance, one of which is dedicated to Spanish-speakers. There is a self-help email address for online assistance. There are 2 phones set up at the Courthouse that customers can use to connect to a self-help staff member. All self-help forms/packets are available in Room 119 on the 1st floor, at the Civil Clerks Counter, and at the Domestic Relations Clerks Counter. In resuming operations, the Center will:

- Eventually resume in-person interviews at the self-help counters, starting at the downtown location with one window, expanding to two, and eventually opening all three windows (we will simultaneously phase out 3 of the 4 phone numbers and remove the 2 public phones). We will resume staffing the self-help counter at the Children's Court. Those staff who are not at the court working at the self-help counter will continue to work remotely if possible.
- Wear face masks when at the courthouse.
- Disinfect counter/window areas before and after shifts.
- Handle customer packets as little as possible. Emphasis will be placed on sanitizing hands between each customer. Latex gloves will be made available to staff for emergency use if sanitizing between customers is not possible. Guides on how to remove gloves safely will be posted at each self-help window.
- Remove the forms/packets from the lobby area of Room 119 and resume selling packets.
- Explore reconfiguration of the lobby/Room 119 to reinforce social distancing (spacing chairs at least 6 feet apart, reconfiguring kiosks, plexiglass between self-help windows).

Arbitration and Settlement Facilitation cases will continue to be processed via email. Phone calls and emails will be done remotely. New Mexico Legal Aid will continue to





STATE OF NEW MEXICO
SECOND JUDICIAL DISTRICT
Center for Self-Help and Dispute Resolution

hold virtual/telephonic Family Law and Civil Legal Clinics. Plan tentative Peter Johnstone
Settlement Facilitation Day for the fall.

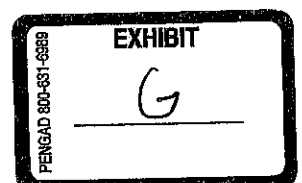
Proposed Jury Instruction [Civil]

The Constitutions of the United States and New Mexico afford the right to a jury trial in civil cases, and even during a pandemic, the parties to this case are entitled to a jury.

The Court has summoned you here to be prospective jurors. The COVID-19 pandemic has challenged many of our fundamental institutions. The New Mexico Supreme Court has recognized that it is vital that the bedrock of the American system of justice, the jury trial, continue forward to ensure that citizens can turn to you, their peers, to determine the true facts from evidence produced in open court. In order to ensure the continued smooth operation of the civil justice system, trial of this case before a jury could not be delayed because of the pandemic. The fact that you were summoned to jury duty during this extraordinary time should not be held against either party.

This trial will proceed in a manner consistent with the latest precautionary measures recommended by public health officials, based on the local circumstances and the available resources in each judicial district. In order to limit the number of people in the courtroom and to comply with social distancing guidelines, the Court may require parties or witnesses to attend trial remotely, will require individuals to maintain at least a six-foot distance from other people, and will require masks to be worn in the courtroom. You should not draw any conclusions about the facts of this case or the relationships between the people involved based on their physical distance from each other or their presence in or absence from the courtroom.

During this unusual and evolving circumstance, jury service remains an honored tradition and an important tool for justice for all New Mexico citizens. From its beginning our country has relied on citizens to apply their collective wisdom, experience, and fact-finding abilities to decide disputes under the law.



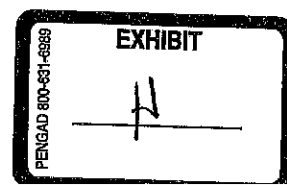
Draft COVID-19 Jury Instruction [Criminal]

The Constitution of the United States and New Mexico affords the right to a jury trial in both civil and criminal cases. Constitutional rights apply even during a pandemic.

You have been summoned here as prospective jurors. The COVID-19 pandemic has challenged many of our institutions, including the judiciary. The New Mexico Supreme Court recognizes that the jury trial is vital to the American system of justice to ensure that citizens continue to be entitled to the facts of a case being decided by a jury of peers. In order to ensure the continued smooth operation of the justice system, trial of this case cannot be delayed. The fact that you were summoned to jury duty during this extraordinary time should not be held against either party.

This trial will proceed in a manner consistent with the latest precautionary measures recommended by health professionals. In order to limit the number of people in the courtroom and to comply with social distancing guidelines, the Court may utilize remote technologies both during jury selection and potentially during some witness testimony. In addition, social distancing is in effect and you must maintain a six-foot distance from other people as well as wear a face mask at all times in the building. You should not draw any conclusions about the facts of this case or the relationships between people based on their physical distance from each other or their presence or absence from the courtroom.

The Court thanks you for your appearance today. Jury service remains an honored tradition and an important tool for justice for all New Mexicans.



Jury Room 127



2914 Square Feet

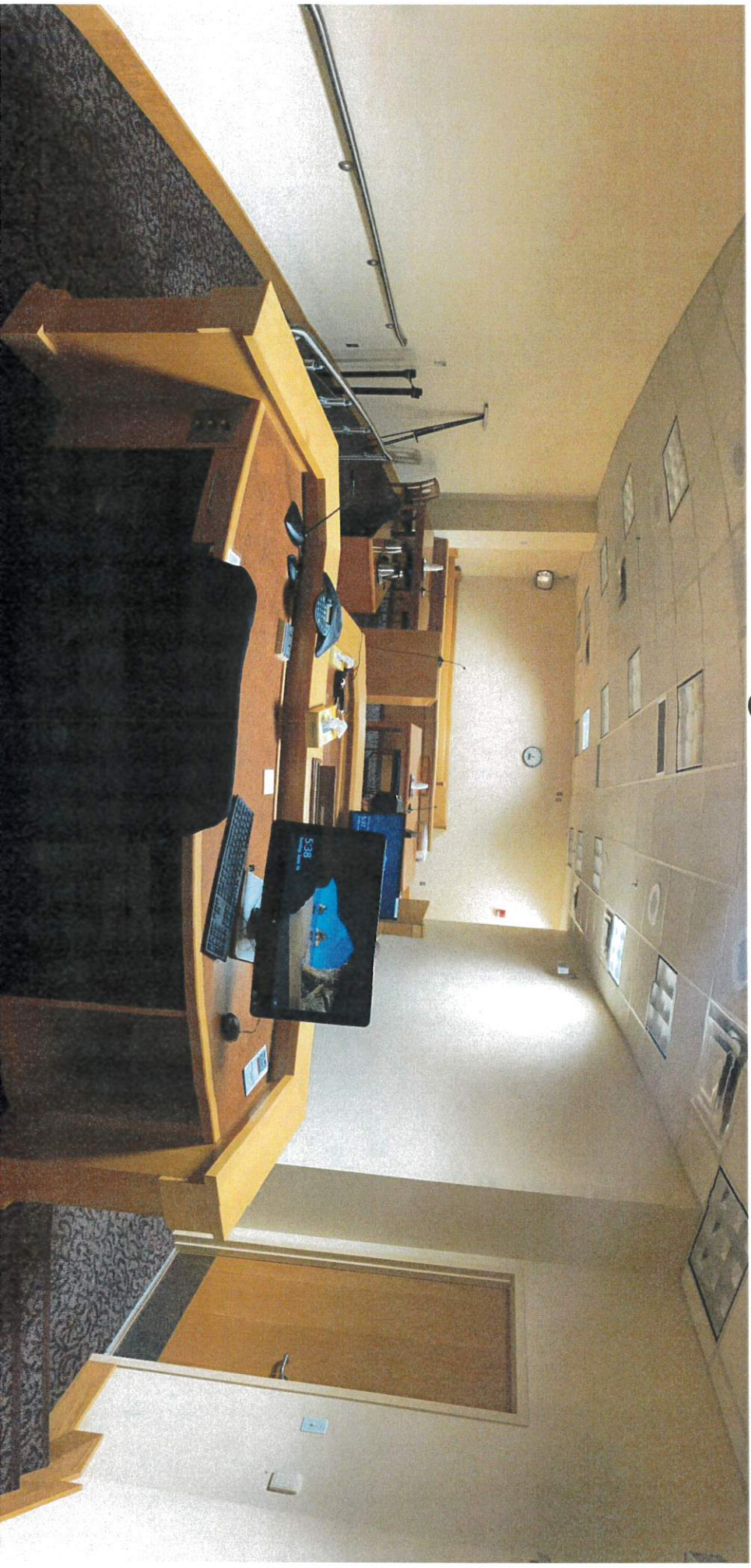


DV Hearing Room 252



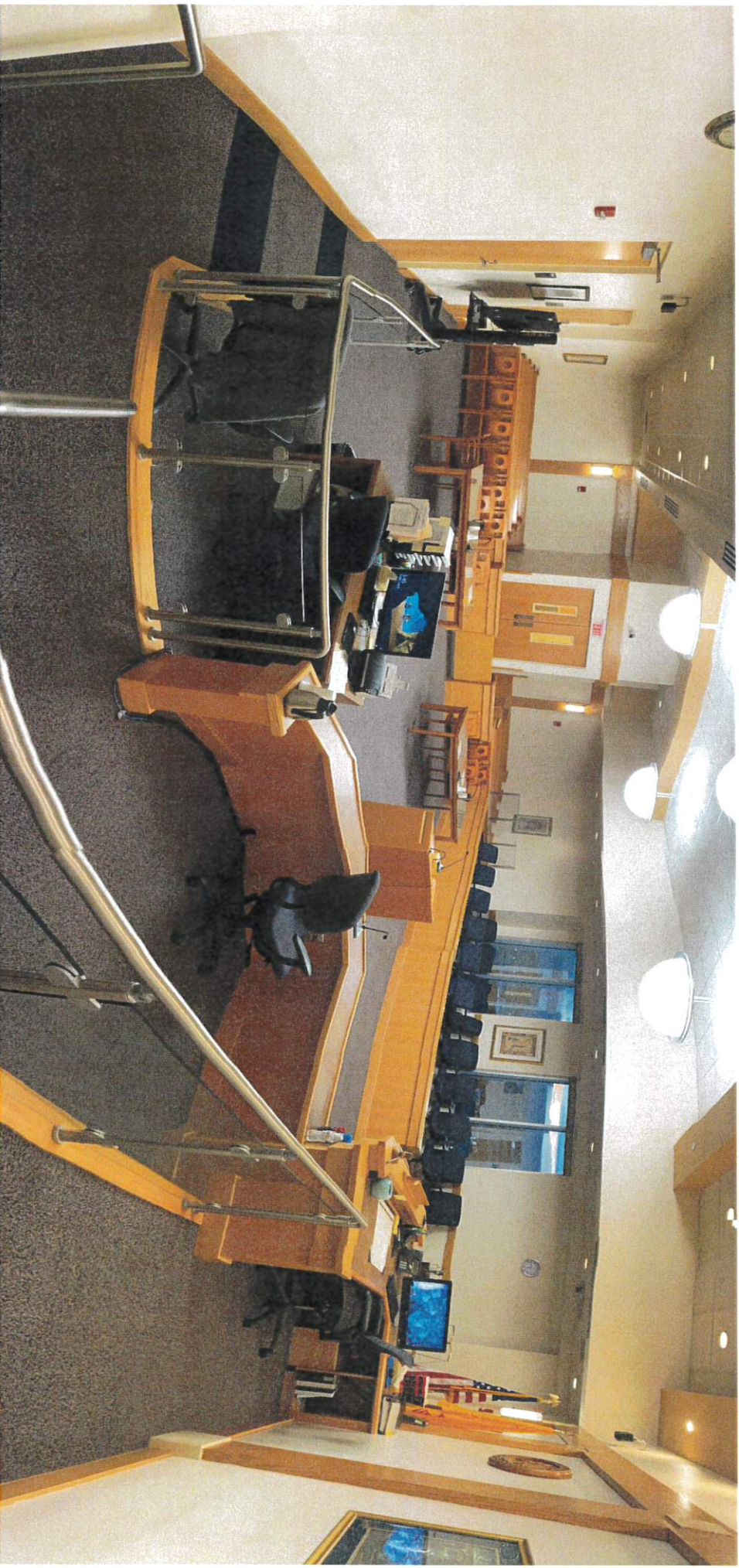
270 Square Feet

Hearing Room 510



741 Square Feet

Courtroom 420

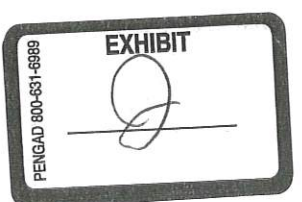


1950 Square Feet

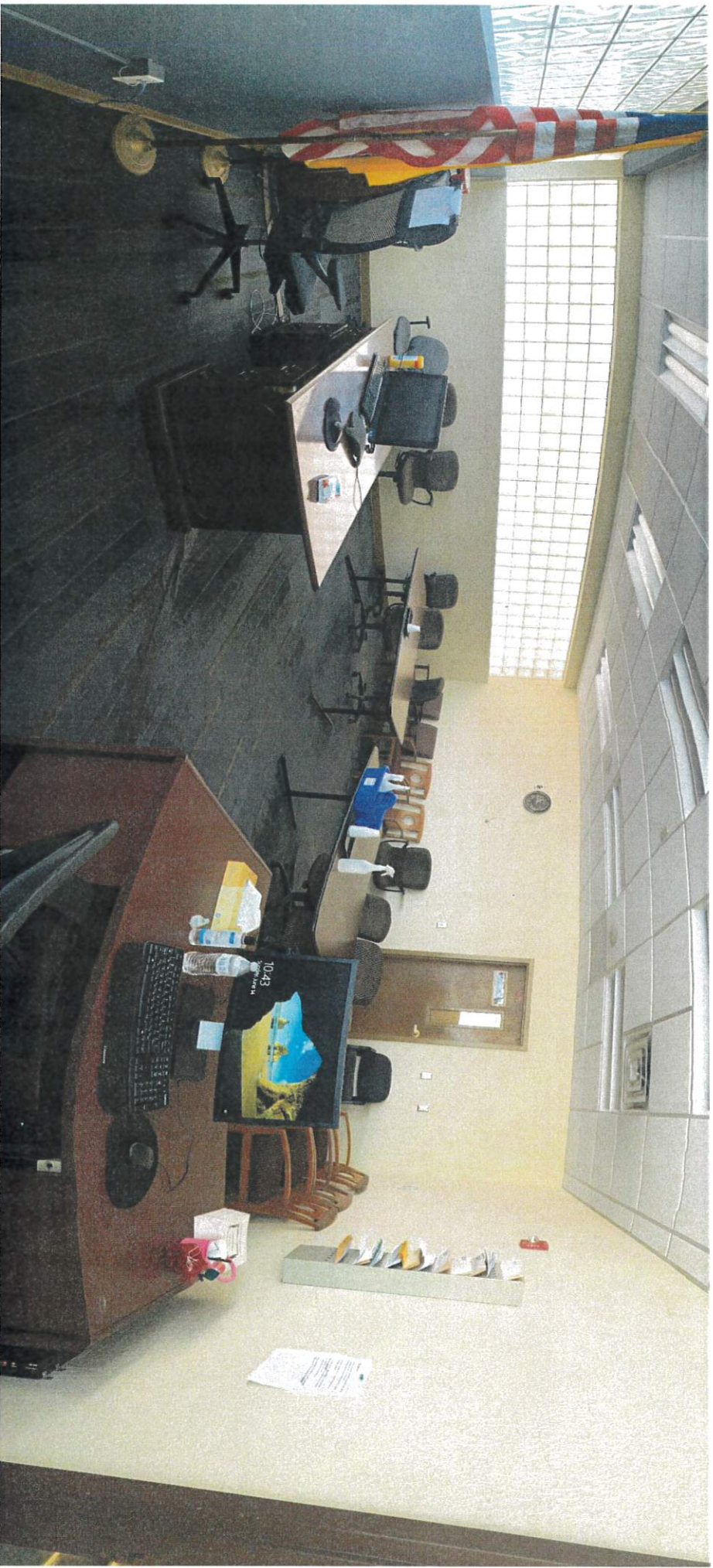
JJC Jury Room 120



481 Square Feet



JJC Hearing Room 117



441 Square Feet

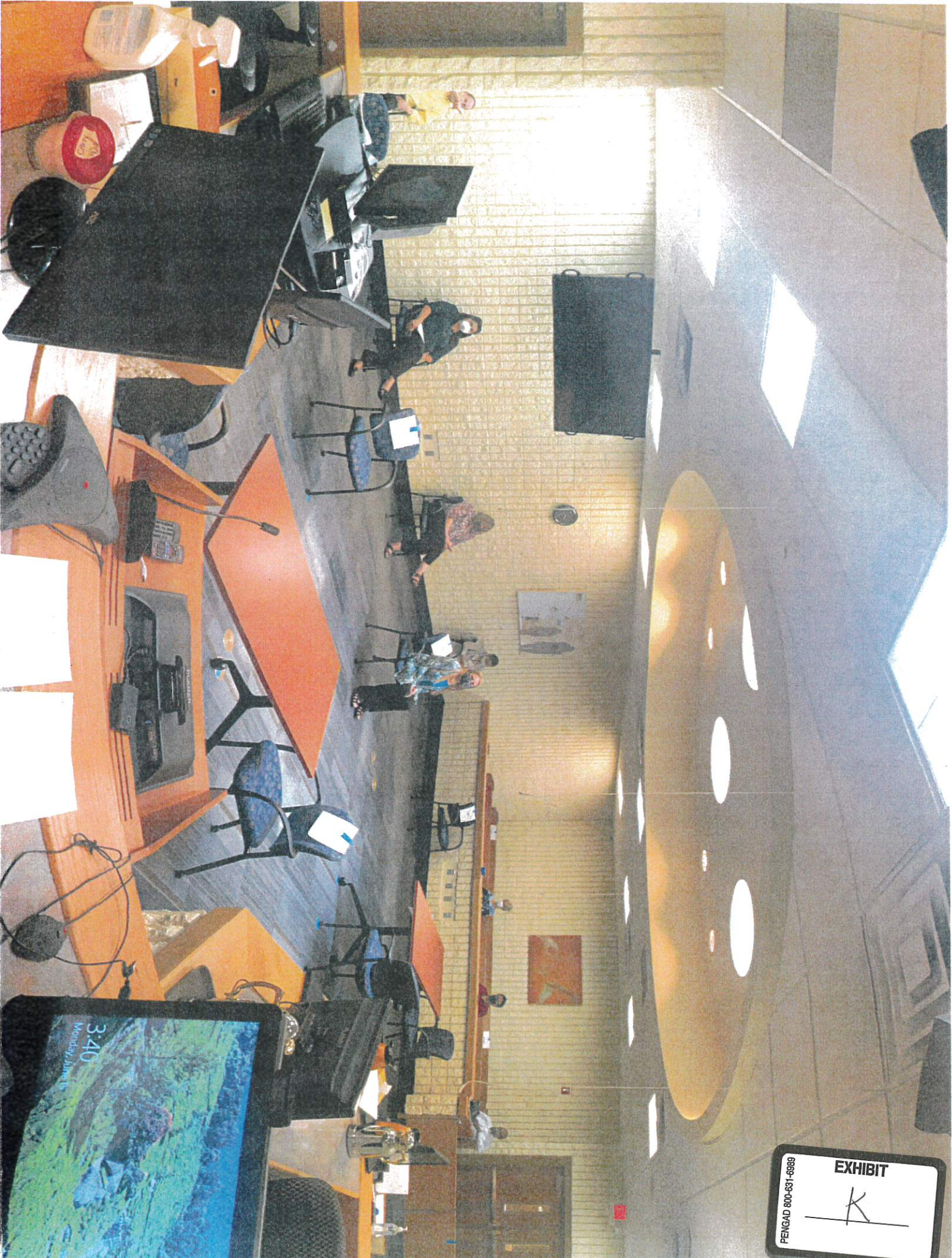
JJC Courtroom 153



960 Square Feet



PENGAD 800-631-6989



PENGAD 800-631-6989
EXHIBIT
K

Courtroom 338



2294 Square Feet

Jury Room 338



384 Square Feet

Courtroom 520



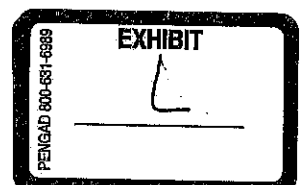
1833 Square Feet



New Mexico Judicial Branch COVID-19 Court Facility Screening Questions Public

If you answer "yes" to any of the questions, you may stop answering the screening questions, you are **NOT PERMITTED IN THE BUILDING.**

1. Within the past 14 days, have you left New Mexico or traveled to New Mexico from a location outside of the State or outside the United States? (If you are a participant in a court proceeding that is occurring today or court ordered to be here, please answer "other")
 - ☐ Yes
 - ☐ No
 - ☐ Other
2. Have you been asked to self-quarantine because of COVID-19 and are you still within the quarantine period?
 - ☐ Yes
 - ☐ No
3. Within the past 14 days, have you been diagnosed with COVID-19 by a doctor?
 - ☐ Yes
 - ☐ No
4. Within the past 14 days, have you had a positive test results for COVID-19 from a testing center or by the Department of Health?
 - ☐ Yes
 - ☐ No
5. In the past 14 days, have you been in contact with anyone who you know has COVID-19, or with someone who is required to self-quarantine?
 - ☐ Yes
 - ☐ No
6. Within the past 14 days, have you had a fever at or above 100.4 degrees, chills, sore throat, body aches, or headaches?
 - ☐ Yes
 - ☐ No
7. Within the past 14 days, have you developed new shortness of breath, difficulty breathing, or dry cough?
 - ☐ Yes
 - ☐ No
8. Have you recently developed a loss of taste or smell?
 - ☐ Yes
 - ☐ No





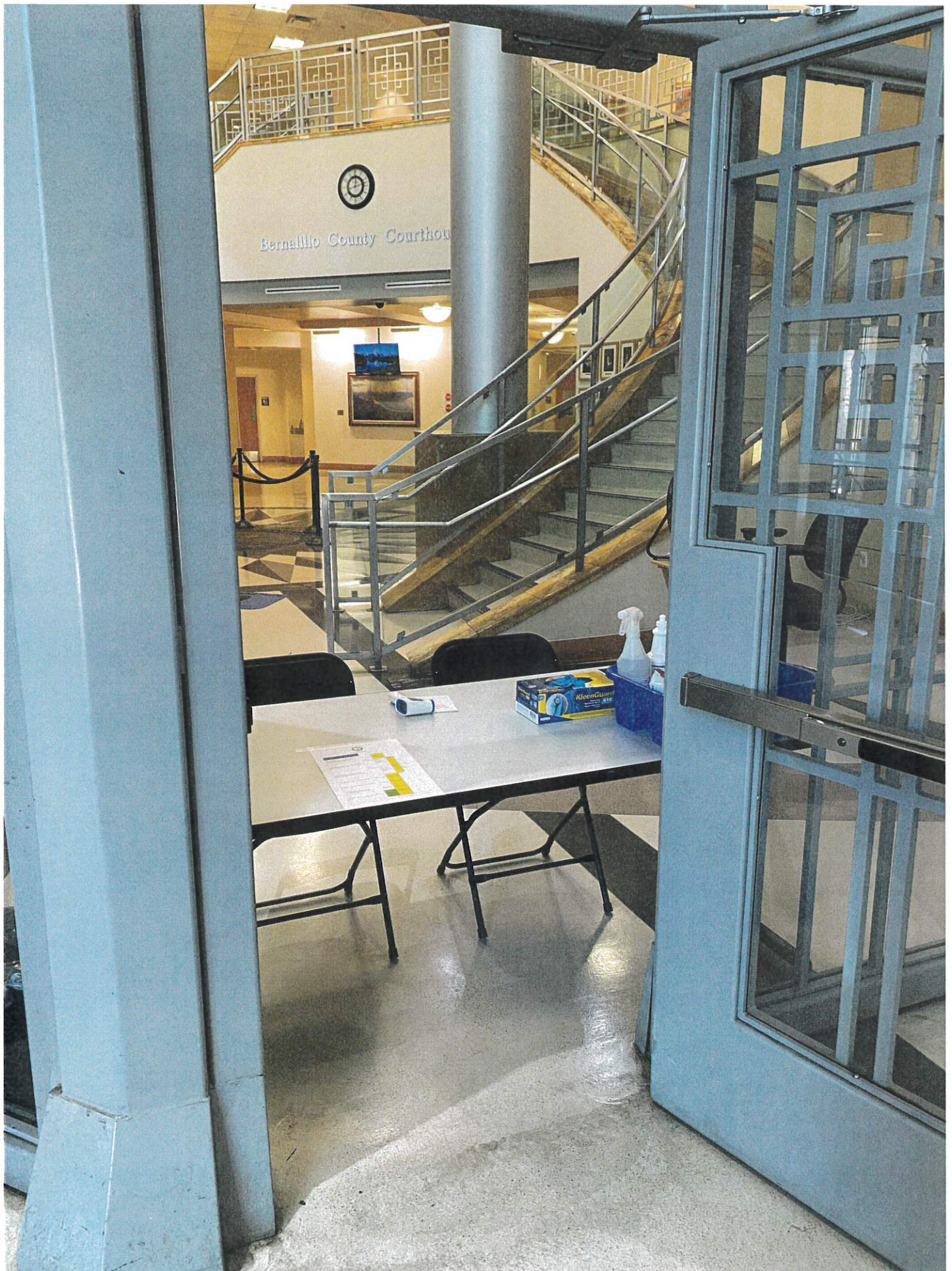
New Mexico Judicial Branch COVID-19 Court Facility Screening Questions EMPLOYEE

If you answer "yes" to any of the questions, stop answering the screening questions and contact your supervisor, you are **NOT PERMITTED IN THE BUILDING.**

1. Within the past 14 days, have you left New Mexico or traveled to New Mexico from a location outside of the State or outside the United States? (If you reside outside of New Mexico or traveled for essential medical care outside of New Mexico or outside the United States, please answer "other")
 - ☐ Yes
 - ☐ No
 - ☐ Other (notify your supervisor)
2. Have you been asked to self-quarantine because of COVID-19 and are you still within the quarantine period?
 - ☐ Yes
 - ☐ No
3. Within the past 14 days, have you been diagnosed with COVID-19 by a doctor?
 - ☐ Yes
 - ☐ No
4. Within the past 14 days, have you had a positive test results for COVID-19 from a testing center or by the Department of Health?
 - ☐ Yes
 - ☐ No
5. In the past 14 days, have you been in contact with anyone who you know has COVID-19, or with someone who is required to self-quarantine?
 - ☐ Yes
 - ☐ No
6. Within the past 14 days, have you had a fever at or above 100.4 degrees, chills, sore throat, body aches, or headaches?
 - ☐ Yes
 - ☐ No
7. Within the past 14 days, have you developed new shortness of breath, difficulty breathing, or dry cough?
 - ☐ Yes
 - ☐ No
8. Have you recently developed a loss of taste or smell?
 - ☐ Yes
 - ☐ No

Employee Signature

Date









SAMPLE TEMPLATE:

NOTICE TO VULNERABLE INDIVIDUALS

NOTICE-ANY PERSON WHO HAS BEEN DEEMED TO BE A VULNERABLE INDIVIDUAL AS DEFINED BELOW SHALL CONTACT THE COURT AT LEAST 48 HOURS PRIOR TO ANY APPEARANCE DATE AND/OR HEARING DATE AT [INSERT PHONE NUMBER] TO REQUEST TO HAVE THEIR IN-PERSON APPEARANCE WAIVED AND TO HAVE THEIR APPEARANCE TO BE SCHEDULED ELECTRONICALLY.

*Vulnerable individuals are those adults aged 65 years or older, individuals who live in a nursing home or long-term care facility, or individuals of any age with serious health conditions, such as high blood pressure, chronic lung disease, diabetes, obesity, asthma, and those whose immune systems are compromised such as by chemotherapy for cancer or other conditions requiring such therapy.

